

**LEGISLATIVE JOURNAL
OF THE
STATE OF NEBRASKA**

**NINETY-SECOND LEGISLATURE
THIRD SPECIAL SESSION**

1992

Convened September 21, 1992

Adjourned October 2, 1992

LINCOLN, NEBRASKA

Compiled

Under the Authority of the Legislature

by

PATRICK J. O'DONNELL, CLERK

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LEGISLATURE

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Dist.	Name	Address	Occupation	Counties
1	Spencer W. Morrissey	Tecumseh	Track Inspector	Johnson, Nemaha, Otoe*, Pawnee, Richardson
2	Roger R. Wehrbein	Plattsmouth	Farmer/Feeder	Cass, Otoe*
3	Emil E. Beyer, Jr.	Gretna	Real Estate Investments,	Douglas*, Sarpy*
			Catering	
4	Thomas R. Horgan	Omaha	President, Nebraska	Douglas*
			Independent College Foundation	
5	Bernice Labedz	Omaha	Retired	Douglas*
6	Brad Ashford	Omaha	Attorney	Douglas*
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9	John C. Lindsay	Omaha	Attorney	Douglas*
10	Carol McBride Pirsch	Omaha	Manager of	Douglas*
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11	Ernie Chambers	Omaha	Defender of	Douglas*
			the Downtrodden	
12	Chris Abboud	Omaha	Attorney at Law	Douglas*
13	Daniel C. Lynch	Omaha	Insurance	Douglas*
14	Ron Withem	Papillion	Executive Director of	Sarpy*
			Mechanical Contractor's Assoc.	
15	Lowell C. Johnson	North Bend	Farm and Property	Dodge*
			Management	
16	C. N. "Bud" Robinson	Blair	Educator and	Burt, Cumming*, Thurston, Washington
			Businessman	

Dist.	Name	Address	Occupation	Counties	x
17	Gerald Conway	Wayne	Consultant.....	Dakota, Dixon, Wayne*	
18	Stan Schellpeper.....	Stanton	Farmer/Feeder.....	Colfax, Cuming*, Dodge*, Stanton	
19	Elroy M. Hefner.....	Coleridge.....	Business Executive	Cedar, Knox, Pierce, Wayne*	
20	Jessie K. Rasmussen.....	Omaha	Special Ed. Teacher	Douglas*	
21	Richard Peterson	Norfolk.....	Farmer/Beekeeper/ Businessman	Madison	
22	Jennie Robak.....	Columbus	Homemaker/Disaster	Boone*, Nance, Platte*	
23	Loran Schmit.....	Bellwood	Farmer.....	Butler, Platte*, Saunders	
24	Scott Moore.....	Seward.....	Farmer/State Senator	Polk*, Seward, York	
25	Jerome Warner	Waverly.....	Livestock/Farming.....	Lancaster*	
26	Don Wesely.....	Lincoln	Senior Research..... Associate-LTT	Lancaster*	
27	DiAnna R. Schimek.....	Lincoln		Lancaster*	
28	Chris Beutler	Lincoln	Attorney, Businessman	Lancaster*	
29	La Von Crosby.....	Lincoln		Lancaster*	
30	Dennis M. Byars	Beatrice	Development Officer for	Gage, Jefferson*	
			Martin Luther Home		
31	Jerry Chizek	Omaha	Public Affairs Manager	Douglas*	
32	George Coordsen.....	Hebron	Farmer.....	Fillmore, Jefferson*, Saline, Thayer	
33	Ardyce L. Bohlke	Hastings.....		Adams	
34	Rod Johnson	Sutton		Clay, Hall*, Hamilton, Merrick, Polk*	
35	Arlene Nelson	Grand Island	State Senator	Hall*	

Dist.	Name	Address	Occupation	Counties
36	Jim D. Cudaback.....	Riverdale.....	Property Manager.....	Buffalo*, Hall*
37	Douglas A. Kristensen.....	Minden.....	Attorney.....	Buffalo*, Franklin, Kearney, Nuckolls, Webster
38	W. Owen Elmer.....	Indianola.....	Agri-Business.....	Frontier, Furnas, Gosper, Harlan, Lincoln*, Red Willow
39	Edward J. Schrock.....	Elm Creek.....	Farmer.....	Dawson, Phelps
40	Merton L. Dierks.....	Ewing.....	Veterinarian/Rancher.....	Antelope, Boone*, Boyd, Holt
41	Carson H. Rogers.....	Ord.....	Pork Producer.....	Custer*, Garfield, Greeley, Hall*, Howard, Loup, Sherman, Valley, Wheeler
42	David F. Bernard-Stevens.....	North Platte.....	Educator/State Senator.....	Lincoln*
43	Howard A. Lamb.....	Anselmo.....	Rancher.....	Blaine, Brown, Cherry, Custer*, Hooker, Keya Paha, Logan, McPherson, Rock, Thomas
44	Rex Haberman.....	Imperial.....	State Senator.....	Arthur, Chase, Deuel, Dundy, Grant, Hayes, Hitchcock, Keith, Lincoln*, Perkins
45	D. Paul Hartnett.....	Bellevue.....	College Professor.....	Sarpy*
46	David Landis.....	Lincoln.....	College Instructor.....	Lancaster*
47	Dennis G. Baack.....	Kimball.....	Consultant.....	Banner, Cheyenne, Garden, Kimball, Morrill, Scotts Bluff*
48	Joyce Hillman.....	Gering.....		Scotts Bluff*
49	Wm. R. "Bob" Wickersham.....	Harrison.....	Attorney.....	Box Butte, Dawes, Sheridan, Sioux

Clerk

Patrick J. O'Donnell Lincoln

RULES OF THE LEGISLATURE

Rules in effect at the commencement of the Ninety-Second Legislature, Third Special Session, 1992, are the same rules in effect at the commencement of the Ninety-Third Legislature, First Session, 1993.

FIRST DAY - SEPTEMBER 21, 1992

LEGISLATIVE JOURNAL

**NINETY-SECOND LEGISLATURE
THIRD SPECIAL SESSION**

FIRST DAY

Legislative Chamber, Lincoln, Nebraska
Monday, September 21, 1992

Pursuant to a proclamation by His Excellency, E. Benjamin Nelson, Governor of the State of Nebraska, the Ninety-Second Legislature, Third Special Session, assembled in the West Legislative Chamber of the State Capitol, at the hour of 1:30 p.m., Monday, September 21, 1992, and was called to order by Speaker Baack.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and the following members were present:

Abboud, Chris	Hefner, Elroy M.	Rasmussen, Jessie K.
Ashford, Brad	Hillman, Joyce	Robinson, C. N. Bud
Baack, Dennis	Horgan, Thomas R.	Rogers, Carson
Bernard-Stevens, David F.	Johnson, Lowell C.	Schellpeper, Stan
Beutler, Chris	Johnson, Rod	Schimek, DiAnna R.
Beyer, Emil E., Jr.	Lamb, Howard A.	Schmit, Loran
Bohlke, Ardyce L.	Landis, David M.	Schrock, Edward
Chambers, Ernie	Lindsay, John C.	Warner, Jerome
Chizek, Jerry	Lynch, Daniel C.	Wehrbein, Roger R.
Conway, Gerald	Moore, Scott	Wesely, Don
Coordsen, George	Nelson, Arlene	Will, Eric
Crosby, LaVon	Peterson, Richard	Withem, Ron
Cudaback, Jim D.	Pirsch, Carol McBride	
Haberman, Rex S.		

The following members were excused:

Byars, Dennis M.
Dierks, Merton L.
Elmer, W. Owen
Hall, Tim

Hartnett, D. Paul
Kristensen, Doug
Labedz, Bernice

Morrissey, Spencer W.
Robak, Jennie
Wickersham, William R.

DECLARATION

Pursuant to a proclamation issued by the Honorable E. Benjamin Nelson, Governor of Nebraska, we are here and now assembled in the 92nd Legislature, 3rd Special Session of the Nebraska Legislature. I, as Acting President of the Legislature, declare that we are now open for the transaction of business.

(Signed) Dennis Baack
Speaker of the Legislature

CERTIFICATE

STATE OF NEBRASKA

United States of America,)
) ss. Department of State
State of Nebraska)

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that the attached is a true and correct copy of a Proclamation by the Governor of the State of Nebraska calling an Extraordinary Session of the Legislature.

I hereby certify that the attached document was filed in the office of the Secretary of State on the sixteenth day of September, 1992.

Finally, I hereby certify that a copy of this proclamation is on file in the office of the Secretary of State and is a matter of public record.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this Seventeenth day of September in the year of our Lord, one thousand nine hundred and ninety-two.

(SEAL) Allen J. Beermann, Secretary of State

PROCLAMATION

BY VIRTUE OF THE AUTHORITY VESTED in the Governor by Article IV, Section 8, of the Constitution of the State of Nebraska, I, E. Benjamin Nelson, as Governor of the State of Nebraska, believing that an extraordinary occasion has arisen, DO HEREBY CALL the Legislature of Nebraska to convene in extraordinary session at the State Capitol on September 21, 1992, at 1:30 p.m. for the purpose of considering and enacting legislation on only the following subjects:

1. To reduce appropriations approved by the 92nd Legislature, and to appropriate funds for certain deficit appropriations.
2. To adopt modifications to statutes to change certain definitions for purposes of aid to dependent children; to change requirements for eligibility and financing of education for certain students that are wards of the state or a court; to change requirements relating to certain medicaid services; to delay the date of implementation of certain programs and capital construction projects; to make certain changes relating to the disposition of unclaimed property; and to allow certain funds to lapse to the general fund.
3. To adopt modifications to statutes to consolidate certain programs and operations of the Department of Personnel, the Office of Risk Management, Department of Administrative Services, Parole Board, and Department of Corrections.
4. To appropriate funds for the necessary expenses of the extraordinary session herein called.

I direct that members of the Legislature of the State of Nebraska be notified of the convening of this extraordinary session by presenting to each of them a copy of this Proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand, and caused the Great Seal of the State of Nebraska to be affixed this 16th day of September in the year of the Lord One Thousand Nine Hundred and Ninety-Two.

(Signed) E. BENJAMIN NELSON
Governor

(SEAL)
Attest:

(Signed) ALLEN J. BEERMANN
Secretary of State

MOTION - Election of Officers

Mr. Warner moved that the following officers be elected to serve for the Ninety-Second Legislature, Third Special Session:

Clerk of the Legislature	Patrick J. O'Donnell
Assistant Clerk of the Legislature	Richard K. Brown
Sergeant at Arms	Carl E. Kamprath
Chaplain Coordinator	Harland Johnson

The motion prevailed.

CERTIFICATE**STATE OF NEBRASKA**

United States of America,)	
) ss.	Department of State
State of Nebraska)	

I, Allen J. Beermann, Secretary of State of the State of Nebraska do hereby certify that the attached is a true and correct copy of the Official Roster of members of the Nebraska Unicameral Legislature elected or appointed to serve in the Ninety-second Legislature, Third Special Session, 1992.

Further, I hereby certify that the members so listed on the Official Roster attached hereto are the duly elected or appointed members of the Unicameral Legislature in the State of Nebraska for the Ninety-second Legislature, Third Special Session, 1992.

Finally, I hereby certify that all election returns, abstracts, canvass and appointment records with reference to said members are on file in the office of the Secretary of State and are a matter of public record.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska.

Done at Lincoln this Twenty-first day of September in the year of our Lord, one thousand nine hundred and ninety-two.

(SEAL) Allen J. Beermann, Secretary of State

DISTRICT	NAME	ELECTED
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1	Spencer W. Morrissey	November 8, 1988
2	Roger R. Wehrbein	November 6, 1990
3	Emil E. Beyer, Jr.	November 8, 1988
4	Thomas R. Horgan	November 6, 1990
5	Bernice Koziol Labedz	November 8, 1988
6	Brad Ashford	November 6, 1990
7	Tim Hall	November 8, 1988
8	Eric Will	November 6, 1990
9	John C. Lindsay	November 8, 1988
10	Carol McBride Pirsch	November 6, 1990
11	Ernie Chambers	November 8, 1988
12	Chris Abboud	November 6, 1990
13	Daniel C. Lynch	November 8, 1988
14	Ron Withem	November 6, 1990
15	Lowell C. Johnson	November 8, 1988
16	C. N. Bud Robinson	November 6, 1990
17	Gerald Conway	November 8, 1988
18	Stan Schellpeper	November 6, 1990
19	Elroy M. Hefner	November 8, 1988
20	Jessie K. Rasmussen	November 6, 1990
21	Richard Peterson	November 8, 1988
22	Jennie Robak	November 6, 1990
23	Loran Schmit	November 8, 1988
24	Scott Moore	November 6, 1990
25	Jerome Warner	November 8, 1988
26	Don Wesely	November 6, 1990
27	DiAnna R. Schimek	November 8, 1988
28	Chris Beutler	November 6, 1990
29	LaVon Crosby	November 8, 1988
30	Dennis M. Byars	November 6, 1990
31	Jerry Chizek	November 8, 1988
32	George Coordsen	November 6, 1990
33	Ardyce L. Bohlke	Appointed 7-1-91 ***
34	Rod Johnson	November 6, 1990
35	Arlene Nelson	November 8, 1988
36	Jim D. Cudaback	November 6, 1990
37	Doug Kristensen	November 8, 1988
38	W. Owen Elmer	November 6, 1990
39	Edward Schrock	Appointed 12-31-90 *
40	Merton L. Dierks	November 6, 1990
41	Carson Rogers	November 8, 1988
42	David F. Bernard-Stevens	November 6, 1990
43	Howard A. Lamb	November 8, 1988
44	Rex S. Haberman	November 6, 1990
45	D. Paul Hartnett	November 8, 1988

46 David M. Landis	November 6, 1990
47 Dennis Baack	November 8, 1988
48 Joyce Hillman	November 6, 1990
49 William R. Wickersham	Appointed 1-9-91 **

*Appointed 12-31-90 to replace William E. Barrett (resigned)

**Appointed 1-9-91 to replace Sandra K. Scofield (resigned)

***Appointed 7-1-91 to replace Jacklyn J. Smith (resigned)

MESSAGES FROM THE GOVERNOR

September 3, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Power Review Board, requiring legislative approval.

APPOINTEE: Larry Schnase, 426 S. Shore Drive, Hastings, NE 68901

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

September 3, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Accountability and Disclosure Commission, requiring legislative approval.

APPOINTEE: Sharon Emery, 9504 Capitol Ave, Omaha, NE 68114

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

September 3, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Motor Vehicle Industry Licensing Board, requiring legislative approval.

APPOINTEE: Marlin O. Armbruster, 2424 Schoenheit Street,
Falls City, NE 68355

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

September 17, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Nebraska State Parole Board, requiring legislative approval.

APPOINTEE: Ethel Landrum, 3632 Hawthorne Ave., Omaha, NE 68131, 402-558-3195 H, 402-221-3721 W.

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

ATTORNEY GENERAL'S OPINIONS

Opinion No. 92104

DATE: August 24, 1992

SUBJECT: Initiative Petitions; Do particular problems with the petition certifications on initiative petitions invalidate the signatures on those petitions?

REQUESTED BY: Allen J. Beermann, Nebraska Secretary of State

WRITTEN BY: Don Stenberg, Attorney General
Dale A. Comer, Assistant Attorney General

Two groups of individuals have now filed petitions with your office pursuant to Neb.Rev.Stat. § 32-704 (Cum. Supp. 1990) in order to put certain initiative measures on the November general election ballot in Nebraska. Apparently, in your review of those petitions for validity, certain problems have arisen concerning the notarization of petition circulators' signatures and other matters of form. Therefore, you have requested our opinion on numerous questions concerning the effect of form and notarization errors on the validity of initiative petitions. Under Section 32-704, you must determine the validity and sufficiency of those petitions in order to decide whether the initiative measures in question should be placed on the general election ballot in November.

We will deal specifically with each of your questions in turn. However, before we consider those questions directly, we would review the law in Nebraska dealing with initiative measures in general.

In Nebraska, "the right of initiative is precious to the people and is one which the courts are zealous to preserve to the fullest tenable measure of spirit as well as letter." State ex rel. Brant v. Beermann, 217 Neb. 632, 636, 350 N.W.2d 18, 21 (1984). As a result,

provisions concerning the initiative, the legislative power reserved to the people, should receive liberal construction to effectuate the

policy proposed and adopted by the initiative as a part of the democratic process.

Id. The constitutional right of initiative should not be circumscribed by restrictive legislation, or a narrow or strict interpretation of the statutes pertaining to its exercise. State ex rel. Morris v. Marsh, 183 Neb. 502, 162 N.W.2d 252 (1968). In keeping with this policy of liberal construction of statutes to effectuate the initiative process, Section 32-705 (5) specifically provides that, "{c}lerical and technical errors in a{n} {initiative} petition shall be disregarded if the forms prescribed in this section are substantially followed." We will now consider each of your specific questions in the context of this clear public policy in favor of effectuating the right of initiative.

Neb.Rev.Stat. §§ 32-703, 32-704, and 32-713 (Reissue 1988 and Cum. Supp. 1990) deal with the form of petitions for initiative measures and the requirements placed upon petition signers. In addition to those provisions, Section 32-705, as amended by LB 424 in 1992, adds a requirement that an notarized affidavit executed by the petition circulator and certifying certain matters must be attached to the petition signatures in each case. Most of your questions deal with problems in the circulator certification attached to the petitions presented to you. We will first deal specifically with each of the questions you presented and discuss the effect of the problem upon the circulator certification. We will then discuss generally how those various problems impact the validity of the petition signatures and the petitions themselves, since you need to know if each specific problem described in any way invalidates the signatures of the petition signers on the particular petition in question. In each case, we will quote your precise question, and give our response.

1. "Notary Public forgets or omits to affix notary seal {on the certification for circulators required by Section 32-705}."

The Nebraska cases which in any way consider the effect of the omission of a notary's seal from the notary's certification are contradictory. The older cases seem to indicate that the notary's seal must be present to validate the notary's certification. For example, in Welton v. Atkinson, 55 Neb. 674, 76 N.W. 473 (1898), the Nebraska Supreme Court considered the issue of whether a deposition was admissible where the notary who had authenticated the deposition signed the transcript as a notary but did not affix any impression of his official seal. The court stated that if an officer is required to attach his official seal to his acts, a certificate unauthenticated by the impression of such seal is invalid. Therefore, the court concluded that the deposition was inadmissible. See also Sheridan County v. McKinney, 79 Neb. 220, 112 N.W. 329 (1907); Byrd v. Cochran, 39 Neb. 109, 58 N.W. 127 (1894). On the other hand, in General Motors Acceptance Corporation v. Sutherland, 122 Neb. 720, 241 N.W. 281 (1932), the

court indicated that the omission of a notarial seal from an affidavit is "...not generally fatal." *Id.* at 723, 241 N.W. at 282.

The general rule in other jurisdictions appears to be that where there is a statute which requires the official acts of a notary to be authenticated with his or her official seal, such acts are void and ineffectual in the absence of the seal. 1A C.J.S. Acknowledgements § 67 a; 66 C.J.S. Notaries § 8 b. In this regard, Neb.Rev.Stat. § 64-107 (Reissue 1990) states, after listing the official duties of notaries,

Over his signature and official seal, he {the notary} shall certify the performance of such duties so exercised and performed under the provisions of this section, which certificate shall be received in all courts of this state as presumptive evidence of the facts therein certified to.

(emphasis added.) The general rule above, when considered with Section 64-107, leads us to conclude that the older cases in Nebraska state the correct rule with respect to the absence of the notary's seal. This is particularly true since the court in the Sutherland case did not discuss the earlier cases or the notary statute which existed at that time. As a result, we believe that the notary's certification is invalid on the certification for the petition circulator where the notary did not affix his official seal to the petition. We will discuss the effect of that situation upon the validity of the signatures contained on that petition page subsequently.

2. "The Notary Public affixes their notary seal {on the certification for circulators required by Section 32-705}, but fails to sign as a notary."

With respect to this deficiency, the general rule appears to be that the signature of a notary is needed in order to validate the notary's certification as an official act. For example, in Holmes v. Crooks, 56 Neb. 466, 76 N.W. 1073 (1898), the court indicated that the jurat portion of an affidavit and the affidavit itself were invalid where the notary affixed his official seal but neglected to sign the instrument. See also Advance-Rumely Thresher Co. v. Wagner, 29 F.2d 984 (8th Cir. 1928); Bank of Weiner v. Jonesboro Trust Co., 168 Ark. 859, 271 S.W. 952 (1925); Davis v. Hale, 114 Ark. 426, 170 S.W. 99, (1914); 1A C.J.S. Acknowledgements § 66 a. Consequently, we believe that the circulator certification on the initiative petition is invalid in the instance where the notary did not sign the certification but only affixed his or her official seal.

3. "Notary Public in the jurot {sic} or certification clause {of the certification for circulators} indicates that 'the act of notarization is taking place, for example, in Lincoln, Nebraska, however in the venue the Notary Public indicates the county where the petitions came from rather than that county where the act of notarization occurred.'"

In our opinion found at Report of the Attorney General, 1967-1968, No. 160 at 240, we considered this precise question. We concluded at that time that, where the notary public in question was a general notary with authority to act statewide, ". . . a page of a petition is not defective solely because the page was signed outside the jurisdiction of venue." Id. at 244. Our determination in that opinion was based upon several Nebraska cases dealing with affidavits involving absentee ballots which suggested that a difference between the venue of an affidavit and the place of execution was not, by itself, defective if the officer before whom the authentication was made had authority in the jurisdiction of venue. We have reviewed our conclusion in that earlier opinion, and continue to believe that it is correct. Since we presume that the notary in the present instance was a general notary with authority to act statewide, we believe that the circulator certification in question was not defective.

4. "A page or pages of petitions are duly signed by voters and a circulator, for example, on June 6, 7 and 8, the notary public when notarizing the signature of the circulator in the attestation clause places the month of May 1992. Result it appears the notarization appeared a month before signatures were affixed."

The date as stated in a certificate of acknowledgement is not regarded as a material fact, and a certificate otherwise sufficient will not be rendered void by a mistake in the date. Hernett v. Meier, 173 N.W.2d 907 (N.D. 1970); 1A C.J.S. Acknowledgements § 62. Given this general rule, it seems to us that this mistake could be considered a technical or clerical error under Section 32-705, and thus, the circulator certification in question would not be voided. However, as discussed below, you may wish to ask for some additional evidence with respect to this petition.

5. Various pages of signatures contain the dates and signatures of signers, for example, April 12 through the 16th, on the first 7 or 8 lines of the petition page. The circulator and notary then notarize that page on April 16, then for some reason, that page is again circulated and signatures begin to appear on line 9 to line 20 with dates in June or July."

With respect to this particular problem, it seems to us that the circulator certification would be valid for those signatures taken in April. However, there would be no valid circulator certification for those signatures obtained in June and July. You may wish to ask for additional evidence as to those signatures, as discussed below.

6. "In some instances the circulator or the notary (we are not sure which) indicated in the attestation clause that the petition page contained, for example, 18 signatures when in fact that particular page only contained 11 signatures. In this a fatal

error, thus disenfranchising {sic} all the signers on a given page?"

In light of the policy favoring liberal interpretation of the statutes dealing with the initiative rights of the people noted above, we believe that this situation involves a clerical or technical error under Section 32-705 which does not disenfranchise all the petition signers on a particular page.

7. "(This is not a notary problem.) On a given petition page signers dated on line 1-4, for example, their signatures April 21 and 22. On lines 5, 6, 7, the signers affixed in front of their signature, April 26 and 27, then following on lines 8 through 16 or even 20, the dates appear once again, April 21 and 22. Absent fraud, even though the dates are obviously out of sequence. Should the signatures be counted valid?"

Again, we believe that this situation involves a clerical or technical error under Section 32-705, and we do not believe the petition in question is invalid. The signatures should be counted, assuming the other aspects of the petition are proper.

8. "Several circulators began circulation of petition pages and obtained signatures prior to the time that they, the circulator became a registered voter. Does this situation become fatal to all of the signatures gathered by that circulator who was in fact not a registered voter when he or she, the circulator obtained signatures?"

Section 32-705, as amended by LB 424 in 1992, requires a petition circulator to execute an affidavit which states that he or she is a registered voter in Nebraska. Moreover, circulation of an initiative petition if one is not a registered voter can constitute a felony. See Neb.Rev.Stat. § 32-713 (Reissue 1988). As a result, the Nebraska statutes contemplate that petition circulators must be registered voters, and we believe that all signatures obtained by individuals who are not registered voters prior to the time that they become registered voters are invalid and should not be counted.

It could be argued, in this regard, that a requirement that initiative petitions must be circulated by registered voters unconstitutionally impinges upon the right of initiative. However, the legislature may enact reasonable legislation in connection with the initiative and referendum process so as to prevent fraud and to render intelligible the purpose of the proposed law or constitutional amendment. State ex rel Winter v. Swanson, 138 Neb. 597, 294 N.W. 200 (1940). It seems to us that requiring petition circulators to be registered voters could well help prevent fraud by providing handwriting samples, records of circulators, etc. Indeed, in Libertarian Party of Nebraska v. Beermann, 598 F.Supp. 57 (D. Neb. 1984), the court indicated that requiring petition circulators for petitions seeking a new political party to be

registered voters was a valid use of the state's police power to prevent fraud and misrepresentation among petition circulators. In a similar fashion, we believe that requiring petition circulators to be registered voters in the present instance serves a legitimate state purpose, and is constitutional.

Finally, we would turn to a discussion of the validity of petition signatures on a particular petition when its circulator certification is invalidated for some reason. In response to several of your questions above, we have indicated that, in our view, the circulator certification is invalid. Therefore, you need to know, for purposes of putting the particular initiative measure on the ballot, if the signatures on such a problem petition are invalidated along with the circulator's certification.

Courts in several jurisdictions have indicated that when there are irregularities in circulator certifications or their notary attestations in connection with petition efforts, those irregularities simply destroy the prima facie presumption of validity which attaches to the petition signatures on a properly certified petition, and the burden of proof with respect to the validity of the signatures is then shifted to their proponents. The signatures in question are not null and void, but may be reinstated upon proper proof. United Labor Committee of Missouri v. Kirkpatrick, 572 S.W.2d 449 (Mo. 1978); Direct Sellers Association v. McBrayer, 109 Ariz. 3, 503 P.2d 951 (1973); Oklahomans for Modern Alcoholic Beverage Controls v. Shelton, 501 P.2d 1089 (Okla. 1972); Whitman v. Moore, 59 Ariz. 211, 125 P.2d 445 (1942).

Our own supreme court seems to have adopted this rule in Barkley v. Pool, 103 Neb. 629, 173 N.W. 600 (1919). In that case, the circulators of several referendum petitions were found to have acted fraudulently, and the trial court held that all petition certificates for those circulators were impeached and unworthy of credence. The trial court, therefore, refused to count the signatures on the petitions circulated by those circulators when no further evidence was presented as to the genuineness of any of the signatures in question. The Nebraska Supreme Court affirmed the trial court's decision, and stated the rule as follows:

As the circulator of a petition is the agent of the signer, and his oath is the only evidence of the genuineness of the signature, it follows as a matter of course that, where he is shown to have acted fraudulently, the value of his verification is destroyed, and the petition must fall, unless the genuine signatures are affirmatively shown.

Id. at 635, 636, 173 N.W. at 602 (emphasis added).

On the basis of this precedent, we believe that when there are problems with petition certifications, those problems simply remove the presumption of validity that attaches to a properly certified petition. For example, such would be the case in the instance noted above where the

notary failed to affix his seal to the circulator certification. In the absence of any additional proof as to the genuineness of the signatures on the petition in question, they should not be counted. However, proponents of those signatures could come forward with additional evidence to establish that they are authentic. In that event, they could be counted even though the petition certification is bad.

We would also note that, in our view, you have authority as Secretary of State to consider additional evidence concerning the validity of particular signatures on a petition where there is a problem with the petition certification. Under Section 32-704 (3), when a petition is presented to you for filing, you shall, with the aid and assistance of the county clerks and election commissioners, ". . . determine its validity and sufficiency." It seems to us that this language gives you the authority to consider additional evidence as to the validity of signatures. Moreover, the certifications which are returned to you from county clerks and election commissioners may provide some of that additional evidence. As a result, a problem with a petition certification such as those notarial problems discussed above does not necessarily invalidate all of the petition signatures on that document. Proponents of those signatures may submit affidavits or other evidence to you to help you determine the "validity and sufficiency" of that petition.

Sincerely yours,
DON STENBERG
Attorney General
(Signed) Dale A. Comer
Assistant Attorney General

Opinion No. 92106

DATE: August 26, 1992

SUBJECT: Authority of the Attorney General to Discuss the
State's Legal Business with Members of the
Legislature and the News Media

REQUESTED BY: Senator Howard Lamb

WRITTEN BY: Don Stenberg, Attorney General
Steve Grasz, Deputy Attorney General

You request our opinion whether the Attorney General may discuss the State's legal business with members of the Legislature, the news media and the people of Nebraska. You specifically ask whether other

state executive officials may prohibit the Attorney General from engaging in such discussions. Our detailed opinion on this issue is attached and is incorporated by reference. Our opinion is summarized as follows:

We conclude that the Attorney General, under the Constitution and laws of the State of Nebraska, as an independently elected constitutional officer and as the State's Chief Legal Officer, charged by law with control of the State's litigation, has the independent power to determine what information in his possession (not defined by law to be a public record) should be disclosed and what information should be kept confidential in the interest of the people of the State of Nebraska. No elected or appointed official of the executive branch of Nebraska state government has been granted the constitutional authority to impose a "gag" order upon the Attorney General.

Under the Constitution and laws of the State of Nebraska, no executive branch official may restrict the release of information by the Attorney General. The disclosure of information by the Attorney General pursuant to the power vested in him by his clients, the people of Nebraska, does not constitute any ethical violation for breach of confidence because the release of information to the people is clearly authorized by law. The Attorney General may, of course, assert any applicable privilege on behalf of the State if he determines it is in the best interest of the State to do so.

Because of the very direct, personal interest the Attorney General has in this question, I thought it advisable to seek an outside review and comment on the opinion by an expert on this subject.

The expert whose assistance I sought is Dean Dave Frohnmayer. Dean Frohnmayer is currently the Dean of the University of Oregon School of Law. Prior to becoming Dean of the law school, he served for nearly 11 years as the Attorney General of the State of Oregon. Prior to that, he taught constitutional law at the University of Oregon in Eugene for 10 years. Dean Frohnmayer is a 1962 graduate of Harvard College, magna cum laude, and received Bachelor and Master of Arts degrees from Oxford University in England, where he studied on a Rhodes Scholarship. He received his law degree from the University of California at Berkeley in 1967 and served as a member of the Board of Editors of the California Law Review. In addition, he is a prize winning author on U.S. Constitutional issues and a contributing author of the book, "State Attorneys General, Powers and Responsibilities."

Dean Frohnmayer is a former president of the National Association of Attorneys General. In 1985, Dean Frohnmayer received the University of Oregon's Pioneer Award for Outstanding Contributions to the State in politics and law. In my opinion, by education and

experience, Dean Frohnmayer is the nation's leading expert on questions such as the one which you have asked.

Dean Frohnmayer's concurring opinion is attached for your reference and is hereby included as a part of this official opinion of the Attorney General.

Yours truly,
(Signed) Don Stenberg
Attorney General

DS:bs

cc: Clerk of the Legislature

DAVE FROHNMAYER
2875 Baker Blvd.
Eugene, Oregon 97403

August 7, 1992

The Honorable Don Stenberg
Attorney General
State Capitol
P.O. Box 98920
Lincoln, NE 68509

Dear General Stenberg:

You have asked me to provide an independent review of your pending opinion on the powers of the Nebraska Attorney General. That opinion examines the scope of the authority of the Nebraska Attorney General to comment publicly on the state's legal business. I am pleased to respond.

Your opinion is scholarly and exhaustive. It canvasses the major authorities in the field, authorities with which I have long been familiar.

I concur with the legal conclusions you have reached. Although your opinion is grounded in Nebraska law, as properly it must be, your conclusions are consistent with the majority view of authorities in other jurisdictions that have examined related issues.

Let me summarize my observations as follows:

I. CONSTITUTIONAL CONSIDERATIONS: FREEDOM OF SPEECH

At the outset, let me note unequivocally that the very subject matter at issue is the legality of restraints on public comment by a public official about matters of public concern. This subject matter lies at the heart of protections for freedom of speech embodied in the First Amendment to the United States Constitution and the provisions of Article I, section 5 of the Constitution of the State of Nebraska.

While I have not discovered a case dealing precisely with the authority of a governor or a state bar disciplinary committee to sanction the public speech of a state legal officer, there exist obvious limitations on any such authority. It is settled law that there is a strong presumption against the validity of any prior restraint of speech related to public affairs. It is also axiomatic that any government rule or restriction seeking to sanction such speech must be narrowly construed to avoid constitutional conflicts.

Consequently, a person or tribunal seeking to inhibit comment on public affairs by a government official would face a heavy and wholly proper presumption of unconstitutionality.

II. THE ATTORNEY GENERAL AS CONSTITUTIONAL OFFICER

Your opinion canvasses the legal consequences of the status of the Nebraska Attorney General as an independently elected constitutional officer.

This status is extremely important, because it fundamentally alters the structure of attorney-client relationships. Traditional bar and court-imposed disciplinary rules governing attorney-client communications in the private sector simply are inadequate vehicles by which to limit the constitutional and common law responsibilities of the attorney general. Your opinion thoroughly explores the historical and constitutional origins and scope of these powers.

The Nebraska Constitution and laws make the attorney general accountable to the people of Nebraska not to any separately elected official. Both the legislature and the governor may call upon the services of the attorney general, as your opinion clearly notes. Consequently, no one branch of government may claim exclusive dominion over the attorney general's actions. It clearly follows that no officer or branch of government may bind the attorney general to silence if communication of information by the attorney general is essential to serve the legal needs of independent branches and officers of state government, let alone the needs of an informed public to which the attorney general is accountable.

The thrust of your opinion may be summarized in another way. Let me put the premises and conclusions in this fashion.

It is claimed that the governor may assert an attorney-client privilege to prevent the attorney general from discussing potentially vital matters of public concern with Nebraska officials, media or citizens.

For purposes of analysis, your opinion demonstrates that there is no lawyer, no client and no privileged communication under these facts which would trigger an ethical violation. The governor is not a "client" in a traditional sense because under your law the people of Nebraska and the state as an entity are the attorney general's ultimate clients. The attorney general is not a lawyer who may be prohibited from revealing

"confidences" in the private law sense of that term. Unlike the private sector, by Nebraska law the attorney general--not the governor or other agency official--controls the conduct of litigation, the legal policy of the state, the settlement of claims and the assertion of any applicable privileges relating to those legal matters. Finally, in view of the declaration of openness in government which is set forth by statute as the public policy of Nebraska, the kinds of communications which might be characterized as "confidential" in the private sector are strictly limited in the conduct of public business.

Your opinion properly recognizes that traditional privileges of nondisclosure can continue to be claimed, for example the attorney-client privilege, privileges related to the criminal investigatory process, and exemptions from public disclosure codified in laws relating to public records, evidence and the like. However, it is the attorney general, and not any other executive official who possesses authority and discretion to assert these claims.

III. COMMON LAW POWERS

The conclusions you reach concerning the attorney general's constitutional status are fortified by the existence of common law powers possessed by your office. These powers are very broad in Anglo-American jurisprudence, and they provide an independent footing for the conclusions you reach. You quite properly distinguish the West Virginia case of State ex rel. Caryl v. MacQueen, 385 S.E. 2d 646 (W.Va. 1989). MacQueen is clearly a minority view; it was accompanied by a scathing and persuasive dissent; and it originated in a state which, unlike Nebraska, has clearly refused to recognize the attorney general's common law powers. See Manchin v. Browning, 296 SE 2nd 909 (W.Va. 1982).

IV. CONCLUSION

The authority of the attorney general which your opinion examines is innate in the structure of a separation of powers state government. It follows from the constitutional and common law powers of the Nebraska Attorney General. It is consistent with the statutory policy of open government and the political imperative of electoral accountability. Finally, it is consistent with the majority view of courts and other legal authorities which have previously examined this and related issues.

I would be pleased to amplify these views should they be helpful to you. However, there is little that usefully can be added to your comprehensive legal analysis.

Yours very truly,
(Signed) DAVE FROHNMAYER

DATE:

August 6, 1992

SUBJECT: Authority of the Attorney General to Discuss the
State's Legal Business with Members of the
Legislature and the News Media

REQUESTED BY: Senator Howard Lamb

WRITTEN BY: Don Stenberg, Attorney General
Steve Grasz, Deputy Attorney General

You request our opinion whether the Attorney General may discuss the State's legal business with members of the legislature, the news media and the people of Nebraska. You specifically ask whether other state executive officials may prohibit the Attorney General from engaging in such discussion.

Our opinion is consistent with every principle of open constitutional government and the personal accountability of elected officials for their actions. We conclude that the Attorney General, under the Constitution and laws of the State of Nebraska, as an independently elected constitutional officer and as the State's Chief Legal Officer, charged by law with control of the State's litigation, has the independent power to determine what information in his possession (not defined by law to be a public record) should be disclosed and what information should be kept confidential in the interests of the people of the State of Nebraska. No elected or appointed official of the executive branch of Nebraska State government has been granted the Constitutional authority to impose a "gag" order upon the Attorney General.

Under the Constitution and laws of the State of Nebraska, no executive branch official may restrict the release of information by the Attorney General. The disclosure of information by the Attorney General pursuant to the power vested in him by his clients, the people of Nebraska, does not constitute any ethical violation for breach of confidence because the release of information to the people is clearly authorized by law. The Attorney General may, of course, assert any applicable privilege on behalf of the State if he determines it is in the best interests of the State to do so.

The reasons for our conclusion may be summarized as follows. A private attorney representing a private client may not institute or settle litigation without the client's consent. The Attorney General of Nebraska, on the other hand, is authorized by common law and by statute to make those decisions, and all other decisions relating to litigation, for and on behalf of his clients, the people of the State of Nebraska, without the approval of the Governor or any other state official.

As early as 1887, the Nebraska Supreme Court recognized the authority of the Attorney General to proceed with the prosecution of a

case over the objections of the state officials he was nominally representing. Under the Constitution and laws of the State of Nebraska, state officials cannot prevent the Attorney General from filing suit, cannot overrule the Attorney General's decisions on litigation strategy, and cannot prevent the Attorney General from settling lawsuits. It therefore axiomatically follows that those officials are not his clients in any traditional private law sense.

Under Nebraska law the Attorney General is both the authorized decision maker, so far as the State's legal business is concerned, and the State's attorney. As the State's legal decision maker, the Attorney General may release such information as he determines to be in the public interest.

In addition, as an independently elected constitutional officer the Attorney General's professional employment requires that he keep his clients, the people of Nebraska, informed concerning the State's legal business. Moreover, the people, through duly enacted laws, have declared it to be the policy of the State of Nebraska to conduct public business in public thereby authorizing the very disclosures at issue here.

Given the vast authority entrusted to the Attorney General, it is easy to understand why Nebraska Attorney General C.A. Sorensen reported to Governor Arthur J. Weaver on January 1, 1931, as follows:

. . . in Nebraska the attorney general, in addition to the many constitutional and statutory powers and duties vested in him, is charged with the general duties and functions of guarding the rights and interests of the public vested in the office by the common law, and the office has long been recognized as one of great responsibility, in many respects equaling in importance that even of the governor.

I. Discussion

Under Canon 4 of the Code of Professional Responsibility, DR 4-101(B) provides: "{A} lawyer shall not knowingly: (1) Reveal a confidence or secret of his client." This generally prohibits an attorney from public discussion of information received in the course of representing a client, without the client's consent. The foundation of this provision is the attorney-client relationship. Thus, to ascertain the applicability of this provision to the legal relationships between the Nebraska Attorney General and the state officials and agencies receiving legal services from the Attorney General, we address the following issues: (1) who the Attorney General ultimately represents; and (2) who is responsible to and who has the authority to control the State's litigation. To address these questions it is essential to examine the role and duties of the Attorney General.

A. The Role and Duties of the Attorney General

The role of the Attorney General has been described in general terms as follows:

The Attorney General is one of the elected constitutional officers of the State of Nebraska. The duties and authority of the office are derived from the State Constitution, statutory enactments, and the common law. Generally speaking, the Attorney General is responsible for the representation of the state in all legal matters, both civil and criminal, where the state is named as a party or may have an interest in the outcome of the litigation or dispute.

1979-80 Report of the Attorney General (foreword by Attorney General Paul L. Douglas).

Pursuant to Article IV, Section 1 of the Constitution of the State of Nebraska, the Attorney General is an executive officer. See State ex rel. Caldwell v. Peterson, 153 Neb. 402, 407, 45 N.W.2d 122 (1950); State ex rel. Howard v. Marsh, 146 Neb. 750, 753, 21 N.W.2d 503 (1946); Opinion of the Attorney General No. 89033, April 4, 1989. Therefore, the Attorney General has those powers provided in Article IV, section 1 of the Constitution of the State of Nebraska. This section provides that "Officers in the executive department of the state shall perform such duties as provided by law." Id. In Nebraska, the "law" includes constitutional provisions, statutory enactments and the common law.

1. Common Law and Constitutional Duties

Under common law the Attorney General has inherent power and authority to initiate and defend actions, to make decisions regarding strategy, and to negotiate and enter into settlements.

The common law is specifically "adopted and declared to be the law within the State of Nebraska" where it is "applicable and not inconsistent with the Constitution of the United States, with the organic law of this state, or with any law passed or to be passed by the Legislature of this state." Neb.Rev.Stat. §49-101 (Reissue 1988).

In addition to the statutory codification of common law powers, the common law authority of the Attorney General has been repeatedly recognized by the Nebraska Supreme Court. "By the great weight of authority, it is now held that the Attorney General is clothed and charged with all the common-law powers and duties except in so far as they have been limited by statute. . . . As the chief law officer of the state, he may, in the absence of some express legislative restriction to the contrary exercise all such power and authority as public interests may from time to time require." State v. State Board of Equalization and Assessment, 123 Neb. 259, 243 N.W. 264 (1932). See also Babcock, 19 Neb. at 239.

In State v. Finch, 128 Kan. 665, 280 P. 910 (1929) (followed by the Nebraska Supreme Court in State Board of Equalization and Assessment, 123 Neb. at 262) the court set forth a detailed discussion

on the powers and duties of the office of the Attorney General. The court concluded "the Attorney General's powers are as broad as the common law unless restricted or modified by statute." Id. at 1375.

As recently as 1984, the Nebraska Supreme Court found the Attorney General has "inherent powers" in addition to those provided by statute. State v. Douglas, 217 Neb. 199 at 237-238, 349 N.W.2d 870 (1984) ("We recognize that the Attorney General has some duties which are not purely statutory and are sometimes referred to as the common-law duties of the office.") (citing State Board of Equalization and Assessment, 123 Neb. at 242).

Thus, the Nebraska Supreme Court has rejected those decisions holding that constitutional provisions providing for powers and duties "prescribed by law" mean the Attorney General is without common law powers. See, e.g., In re Sharp's Estate, 63 Wis.2d 254, 217 N.W.2d 258, 262 (Wis. 1974); Shute v. Frohmler, 53 Ariz. 483, 90 P.2d 998, 1001 (Ariz. 1939). Instead, Nebraska follows the majority rule as recently set forth in Ex parte Weaver, 570 So.2d 675 (Ala. 1990).

In Ex parte Weaver, the Alabama Supreme Court construed a constitutional provision identical to that in the Nebraska Constitution regarding the duties of the Attorney General. The court's analysis is clearly applicable to the Attorney General of Nebraska.

Article V, Sec. 137, of the Alabama Constitution provides: "The attorney general . . . shall perform such duties as may be prescribed by law." It has been suggested that this wording restricts the authority of the attorney general. However, this is not the general rule. The Supreme Court of Utah in Hansen v. Barlow, 23 Utah 2d 47, 456 P.2d 177 (1969), adopted the reasoning of the Supreme Court of Montana in State ex rel. Olsen v. Public Service Comm'n, 129 Mont. 106, 283 P.2d 594 (1955), as to the general rule. The Utah Supreme Court noted that Article VII, Sec. 18 of the Utah Constitution provides: "The Attorney General shall be the legal adviser of the State Officers and shall perform such other duties as may be provided by Law." 23 Utah 2d at 48, 456 P.2d at 178. This section of the Utah Constitution is similar to Article V, Sec. 137, of the Alabama Constitution. The Utah Supreme Court, as the Montana Supreme Court had done, reasoned that this language, rather than limiting the powers of the attorney general, grants the attorney general the powers that were held by him at common law:

It is the general consensus of opinion that in practically every state of this Union whose basis of jurisprudence is the common law, the office of attorney general, as it existed in England, was adopted as a part of the governmental machinery, and that in the absence of express restrictions, the common-law duties attach themselves to the office so far as they are applicable and in harmony with our system of government.

Hansen v. Barlow, 23 Utah 2d 47, 456 P.2d 177, 178 (1969).
Id. at 684. See also State of Fla. ex rel. Shevin v. Exxon Corp., 526 F.2d 266, 269 (5th Cir. 1976), cert. den., 429 U.S. 829 (1976).

The common law powers of the Attorney General are broad and well recognized. As the chief law officer of the State, the Attorney General is generally authorized to exercise whatever legal authority the public interests may require. He is empowered to make any disposition of the State's litigation which he deems for its best interest. In a 1989 opinion, Attorney General Robert Spire wrote:

The Attorney General and his designees are vested with broad common law and statutory powers to carry out the duties of the Office. The inherent power and authority of the Attorney General to initiate and defend actions, to make decisions regarding strategy, and to negotiate and enter into settlements was addressed in State Board of Equalization and Assessment, 123 Neb. 259, 242 N.W. 609, (cited with approval in Douglas, 217 Neb. 199, 349 N.W.2d 870). There, the Nebraska Supreme Court held that the Attorney General is the principal law officer of the state. Id. at 262. In this regard, the court stated:

We find that a late case, which is in line with the weight of authority, is State v. Finch, 128 Kan. 665, 66 A.L.R. 1369, which traces the powers and duties of the Office of the Attorney General at common law from the earliest times to the present time, and holds: 'Ordinarily the Attorney General, both under common law and by statute, is empowered to make any disposition of the state's litigation which he deems for its best interest. (Emphasis added.)

Id. at 261. Moreover, the court stated that the Attorney General is clothed and charged with all common law powers and duties except to the extent that they are limited by statute; and, as the chief law officer of the state, he is authorized to exercise all such power and authority as the public interests may require, absent some express legislative restriction to the contrary. Id. at 261-262; Douglas, 217 Neb. at 237.

These common law powers and duties were later codified by the Nebraska Legislature. Neb.Rev.Stat. §84-202 (Reissue 1987) provides:

The Department of Justice shall have the general control and supervision of all actions and legal proceedings in which the State of Nebraska may be a party or may be interested, and shall have charge and control of all the legal business of all departments and bureaus of the state, or of any office thereof, which requires the services of attorney or counsel in order to protect the interest of the state. (Emphasis added.)

Opinion of the Attorney General No. 89033, April 10, 1989 at 4. After its initial adoption, §84-202 was reenacted by the Legislature in 1943 and again in 1953. Under the rules of statutory construction, "The Legislature is presumed to have known the effect which the statute originally had and by its enactment to have intended that effect to continue. Halstead v. Rozmiarek, 167 Neb. 652, 66, 94 N.W.2d 37 (1959). Thus, §84-202 must be construed as encompassing common law powers and duties consistent with the Nebraska Supreme Court's decisions cited above.

2. Statutory Duties

In addition to the previously quoted statute (§84-202), other statutory provisions also delineate powers of the Attorney General. Neb.Rev.Stat. §84-203 provides, "The Attorney General is authorized to appear for the state and prosecute and defend, in any court or before any officer, board or tribunal, any cause or matter, civil or criminal, in which the state may be a party or interested."

In addition, section 84-205 (Supp. 1991) provides:

The duties of the Attorney General shall be:

(1) To appear and defend actions and claims against the state;

...

(4) At the request of the Governor, the head of any executive department, the Secretary of State, State Treasurer, Auditor of Public Accounts, Board of Educational Lands and Funds, State Department of Education or Public Service Commission, to prosecute any official bond or any contract in which the state is interested which is deposited with any of them and to prosecute or defend for the state all civil or criminal actions and proceedings relating to any matter connected with any such officers' departments if after investigation, he or she is convinced there is sufficient legal merit to justify the proceeding. Such officers shall not pay or contract to pay from the funds of the state any money for special attorneys or counselors-at-law unless the employment of such special counsel shall be made upon the written authorization of the Governor or the Attorney General;

...

(9) To appear for the state and prosecute and defend all civil or criminal actions and proceedings in the Court of Appeals Supreme Court in which the state is interested or a party. When requested by the Governor or the Legislature, the Attorney General shall appear for the state and prosecute or defend any action or conduct any investigation in which the state is interested or a party before any court, officer, board, tribunal or commission. . . .

The Attorney General is also required, under certain circumstances, to sue the same state officials to whom he provides legal services:

When the Attorney General determines, after such investigation as shall be necessary, that any agency of state government charged with the implementation of any act of the Legislature is failing or refusing to implement such act, he shall notify the agency head by letter of such determination. If, within ten working days of the receipt of such letter, it is not established to his satisfaction that steps to implement the act are being expeditiously taken, and there is no valid reason for failing to do so, such as failure of an appropriation, the Attorney General shall file an action in the appropriate court to compel implementation. In any such action the department head or the agency head shall defend the action. The costs and a reasonable attorney's fees as fixed by the court shall be paid out of the appropriation to the department.

Neb.Rev.Stat. §84-216 (Reissue 1987).

B. The Duty of the Attorney General to Represent the Public

Although the Attorney General provides legal services to the various agencies and officials of the State, the Attorney General is the "public's" or "people's" lawyer and must simultaneously represent the legal interests of the public and the State as a whole. The role of the Attorney General as the public's lawyer has long been recognized.

In State v. Public Service Commission, 283 P.2d 594 (Mont. 1955), the court stated, "Obviously there can be no dispute as to the right of an attorney general to represent the state in all litigation of a public character. The attorney general represents the public and may bring all proper suits to protect its rights." Id. at 599 (quoting 5 Am.Jur., Attorney General, §8, p.238) (emphasis added). In Conn. Com'n v. Conn. Freedom of Information Commission, 387 A.2d 533 (Conn. 1978), the court stated "the real client of the attorney general is the people of the state." Id. at 538 (emphasis added). See also Secretary of Administration and Finance v. Attorney General, 326 N.E.2d 334, 338 (Mass. 1975) ("The Attorney General represents the Commonwealth as well as the Secretary, agency or department head who requests his appearance. (Citation omitted). He also has a common law duty to represent the public interest.")

The role of the Attorney General as the public's lawyer has long been recognized in Nebraska as well. In the 1929-30 Report of the Attorney General dated January 1, 1931, Attorney General C.A. Sorensen reported to Governor Arthur J. Weaver on the duties of the Attorney General and the history of the office.

The office of the attorney general is one of the most ancient and important that has come down to us from the Anglo-Norman system of government. As early as 1253 mention is made of attornatus regis or the King's attorney, and it is certain that the office had already long been in existence at that time. It was not, however, until the year 1472 that the first formal patent of appointment was issued.

The functions of the attorney general were, from the first, recognized as of great constitutional importance. He was considered not only the legal representative of the crown but also the parens patriae or guardian of public interests. His duty was not solely nor even primarily to represent and protect the rights of the King but to represent and protect the rights of the public in all matters tinged with a public interest.

When the American colonies, after having established their independence, proceeded to form a federal government, they recognized that, although the new government would not tolerate a king, a necessity still existed for a public officer similar to that of the British officer the attorney general, who should be charged with the protection of public rights and the enforcement of public duties. Accordingly, in organizing the judicial business of the government, they made provision for an attorney general of the United States who should be at the head of the department of justice, and whose duties and functions were essentially the same as those of the attorney general of Great Britain, but who should receive his commission by appointment from the president.

When the government of Nebraska was organized it was, of course, modeled closely after that of the federal government except that provision was made that the attorney general should be an elective and not an appointive office.

Thus in Nebraska the attorney general, in addition to the many constitutional and statutory powers and duties vested in him, is charged with the general duties and functions of guarding the rights and interests of the public vested in the office by the common law, and the office has long been recognized as one of great responsibility, in many respects equaling in importance that even of the governor. As head of the state's department of justice he is, within the scope of his department, independent of and co-ordinate with all other executive officers.

By reason of his independent status as principal law officer of the state and head of the department of justice the attorney general has authority to initiate actions in the name of the state on his own motion without authorization of the governor or other state officer. This important power was jealously guarded by the common law and has been carefully preserved by constitutional and statutory enactments.

(Emphasis supplied).

In the 1931-32 Report of the Attorney General dated January 4, 1933, Attorney General C.A. Sorensen reported to Governor Charles W. Bryan on the then "recent" case of State ex rel. Sorensen, Attorney General v. State Board of Equalization and Assessment, 123 Neb. 259,

242 N.W. 609 (1932). In this case, the Nebraska Supreme Court stated, with respect to the Attorney General,

As the chief law officer of the state, he may, in the absence of some express legislative restriction to the contrary exercise all such power and authority as public interests may from time to time require.

The attorney general is the principal law officer of the state.

Id. at 261-62.

Unlike executive officers who are appointed, the Attorney General is an independent constitutional officer. In the 1935-36 Report of the Attorney General dated January 7, 1937, Attorney General William H. Wright discussed a proposed constitutional amendment which would have made the office of Attorney General an appointed rather than elected position. Wright supported the idea of making the Attorney General an appointee of the Supreme Court, but opposed allowing the Governor to make such an appointment. His discussion clearly points out the independence of the Attorney General, especially in light of the fact the Attorney General remains an elected constitutional officer today.

If he were to be appointed by the Governor, there is apt to be a tendency on his part to arrive at his decisions in accordance with the wishes of the party who appointed him. For example, -- if the Governor should be advocating or sponsoring any particular type of legislation, the Attorney General might feel that loyalty required him to give an opinion on the validity of such legislation which upheld the ideas of the Governor who appointed him. Such an Attorney General would not be able to give an opinion independent of all outside influences. Then, too, it could be possible, as has been demonstrated in other states, for a Governor to demand that his appointee prepare opinions in keeping with the views of the Governor. In other words, there is a possibility that an Attorney General who was appointed by the Governor might be nothing more than the Governor's "yes man". His opinions might be merely the Governor's opinions given over the signature of the Attorney General. . . .

Under the present Constitution the Governor and the Attorney General are members on the Pardon Board, . . . If the Attorney General were to be appointed by the Governor and still remained as a member of such Boards, the effect would be the giving of an additional vote to the Governor in the conduct of the affairs of such Boards. Either through fear of removal, or through loyalty to the person responsible for his appointment, there would be a strong tendency on the part of the Attorney General to vote with the Governor, or to adopt the Governor's views.

On the Pardon Board, for instance, where there are only three members, such a system would make it possible for the Governor to have full power to grant or to deny pardons to inmates of the penal institutions. The present Pardon Board was created in order to take away from the Governor his pardoning powers and the effect of the constitutional amendment setting up the present Pardon Board might be destroyed by making the Attorney General the appointee of the Governor.

Thus, the Attorney General of Nebraska is an independent constitutional officer who has the duty to represent and protect the rights of the public. The clients of the Attorney General are the people of the State. The Attorney General's ethical obligation is therefore to the public and not to any one state official. The duty of the Attorney General is to uphold the laws and constitution put in place by the people, not to represent the personal desires of individual office holders. In a dispute between the Governor and the Public Service Commission, for example, the Attorney General must give his loyalty to the constitution and laws, not to an individual executive or group of executives.

C. Applicability of DR 4-101(B) to the Attorney General

DR 4-101(B) of Canon Four is not all-encompassing. A prerequisite to its application is the existence of an attorney-client relationship. Therefore, the identity of the "client" is a threshold determination. As previously discussed, the Attorney General's client is the public and his duty is owed to upholding and defending the constitution and laws adopted by the people. Furthermore, several exceptions to DR 4-101(B) are set forth in Ethical Consideration 4-2.

1. The Attorney-Client Relationship

It is clear from the previously cited authorities the Attorney General, because of the nature of his or her office, is not in an ordinary attorney-client relationship with state agencies and officials.

The applicability of the Code of Professional Responsibility to the attorney general was the subject of Conn. Com'n v. Conn. Freedom of Information Commission, 387 A.2d 533 (Conn. 1978). The court discussed the "unique status, powers and duties of the attorney general and his assistants and his dual position as a constitutional officer of the state and at the same time an attorney and member of the Connecticut bar and, as such, bound by the ethical standards which govern the legal profession." Id. at 535. In finding the attorney general had committed no professional impropriety, the court stated:

The attorney general of the state is in a unique position. He is indeed sui generis. As a member of the bar, he is, of course, held to a high standard of professional ethical conduct. As a constitutional executive officer of the state . . . he has been entrusted with broad duties as its chief civil law officer and . . . he must . . . fulfill his

'public duty, as Attorney General, and his duty as a lawyer to protect the interest of his client, the people of the State.' This special status of the attorney general - where the people of the state are his clients - cannot be disregarded in considering the application of the provisions of the code of professional responsibility to the conduct of his office.

We find merit in the observations and the conclusions of the Illinois Supreme Court . . . in {E.P.A. v. Pollution Control Board, 372 N.E.2d 50, 52-53}. . . That court observed: '. . . the Attorney General's powers encompass advising and representing the State and all agencies in all legal proceedings. In addition, although an attorney-client relationship exists between a State agency and the Attorney General, it cannot be said that the role of the Attorney General apropos of a State agency is precisely akin to the traditional role of the private counsel apropos of a client . . . The Attorney General's responsibility is not limited to serving or representing the particular interests of State agencies . . . but embraces serving or representing the broader interest of the State.

. . .

Clearly, the relationship between the Attorney General and {the state agencies} is quite different from that between private counsel and a client who retains him.

Id. at 537-538. See also State v. Mississippi Public Service Com'n, 418 So.2d 779, 782 (Miss. 1982).

In on Ex parte Weaver, 570 So.2d 675 (Ala. 1990), the court set forth a detailed analysis of the powers of the office of attorney general and discussed the unique character of the office in terms of the legal role of the attorney general. The Weaver court quoted extensively from Feeney v. Commonwealth, 373 Mass. 359, 366 N.E.2d 1262, 1265 (1977). In Feeney, the Supreme Court of Massachusetts addressed the question "whether the power of the Attorney General to establish a coherent legal policy for the Commonwealth includes the authority to chart a course of legal action which is opposed by the administrative offices he represents."

The authority of the Attorney General, as chief law officer, to assume primary control over the conduct of litigation which involves the interests of the Commonwealth has the concomitant effect of creating a relationship with the State officers he represents that is not constrained by the parameters of the traditional attorney-client relationship. The language of G.L. c. 12, §3, its legislative history and the history of the office indicate that the Attorney General is empowered when he appears for State officers to decide matters of legal policy which would normally be reserved to the client in an ordinary attorney-client relationship.

Weaver, 570 So.2d at 681 (quoting Feeney, 366 N.E.2d at 1266) (emphasis added).

The Weaver court concluded,

This Massachusetts Supreme Court decision explains the unusual nature of the office of the attorney general and the reason that that office is empowered to control the litigation of state agencies. It further recognizes that the attorney general's relationship to the heads of state agencies is not the ordinary attorney-client relationship.

Weaver, 570 So.2d at 681 (emphasis added). See also Schnapper, Legal Ethics and the Government Lawyer, 32 Record of the Ass'n of the Bar of the City of N.Y., 649, 654 (1977) ("The relationship of agency officials to government counsel is not that of client and attorney in any ordinary sense. . . .") ("It is the law, and not the whims of persons momentarily in the employment of the executive branch, which embodies the interests and desires of the client whom a government attorney is retained to represent.").

Even in the United States government, where the Attorney General is appointed (subject to Senate confirmation), a 19th Century holder of that office, Caleb Cushing long ago took the official position that the Attorney General "is not a counsel giving advice to the government as his client, but a public officer, acting judicially, under all the solemn responsibilities of conscience and of legal obligation." Cushing, Report of the Attorney General, S. Excc. Doc. No. 55, 33rd Cong. 1st Sess. 6 and H.R. Exec. Doc. No. 95, 33rd Cong. 1st Sess. 6 (1854), cited with approval in Zimmerman v. Schweiker, 575 F.Supp. 1436, 1440 (E.D.N.Y. 1983).

The fact that the Nebraska Attorney General is not in a traditional attorney-client relationship with state agencies and officials is virtually self-evident when one considers the role of the Attorney General. First of all, the Attorney General may sue the same state officials to whom he provides legal services. See Neb.Rev.Stat. §84-216.

The Attorney General represents the public interest, and as an incident to his office he has the power to proceed against public officers to require them to perform the duties that they owe to the public in general, to have set aside such action as shall be determined to be in excess of their authority, and to have them compelled to execute their authority in accordance with law.

State v. Public Service Commission, 283 P.2d 594, 600-601 (Mont. 1955) (quoting Attorney General v. Trustees of Boston, El.R.Co., 67 N.E.2d 676, 685).

Second, legal opinions issued by the Attorney General to state officials are public records. Nebraska Attorneys General have published such opinions since at least 1891 (over 100 years). In a traditional attorney-client relationship such opinions would be confidential.

Third, the Attorney General has charge and control of all litigation in which the State has an interest. See Neb.Rev.Stat. §84-202. This principle was recognized by the Nebraska Supreme Court as early as 1887. In *State v. F.E. & M.V.R.R.*, 22 Neb. 313, 35 N.W. 178 (1887), the court held the attorney general could proceed with the prosecution of a case against the protest of the Board of Transportation which he was representing. "The Attorney General is thus the law officer of the State, and intrusted by law with the management and control of all cases in which the state is a party or interested. The majority of the state board of transportation, therefore, cannot control his action. . . ." *Id.* at 318. This same principle was expressed recently in *Weaver*, 570 So.2d at 679.

Ordinarily the attorney general, both under the common law and by statute, is empowered to make any disposition of the state's litigation which he deems for its best interest. His power effectively to control litigation involves the power to discontinue if and when, in his opinion, this should be done. Generally, therefore, the attorney general has authority to direct the dismissal of proceedings instituted in behalf of the state.

Weaver, 570 So.2d at 680 (quoting 5 American Jurisprudence 240, §11) (emphasis added).

The *Weaver* court held the attorney general had the authority to move to dismiss proceedings brought by the state insurance department over the objection of the commissioner of insurance. "The investment of such discretion is based on the premise that the attorney general should act on behalf of the public interest, or as the 'people's attorney.'" *Weaver*, 570 S.2d at 677. Thus, unlike the usual situation where an attorney is bound to conduct litigation according to the wishes of the client, the Attorney General has charge and control of the State's litigation. See also *Frohnmayr v. State Acc. Ins. Fund Corp.*, 660 P.2d 1061 (Or. 1983) (all the State's legal affairs are under the charge, control and supervision of the Attorney General and state agencies may not hire outside counsel without the Attorney General's approval); Schnapper, Legal Ethics and the Government Lawyer, 32 Record of the Ass'n of the Bar of the City of N.Y., 649, 651, 653 (1977).

Fourth, the Attorney General may be requested to pursue litigation by state officials with potentially divergent interests. Pursuant to Neb.Rev.Stat. §84-205(9) (Supp. 1991), the Attorney General may be requested to prosecute and defend actions at the request of the Governor or the Legislature. This provision is structurally incompatible with any notion, for example, that the Governor is the Attorney General's client in the ordinary sense. The Governor's wishes may or may not be the same as the Legislature. The Attorney General clearly represents the public interest and not only that of the Governor.

Fifth, by tradition the Governor of Nebraska appoints a legal counsel to the Governor. The current Governor has done this and the current Attorney General held this position under Governor Charles Thone (Paul Douglas being the Attorney General at that time.) The Governor's legal counsel serves directly under the Governor, and is his or her official personal counsel. The Governor may establish a traditional attorney-client relationship with such counsel and have full attorney-client privilege. The existence of this arrangement further evidences the independence of the Attorney General and his role as the public's lawyer rather than the Governor's.

Sixth, the separation of powers under the Nebraska Constitution makes an ordinary private sector type attorney-client relationship impossible for the Attorney General with respect to other elected or appointed state officials. The Nebraska Constitution clearly provides for the separation of governmental powers into three branches or divisions. Neb.Const. Art. II, §1. The Nebraska Constitution further divides the duties of the executive branch and gives certain executive powers to the Governor, Attorney General, Treasurer, Public Service Commission, Board of Regents, etc. See, e.g., Neb.Const. Art. IV, §§1, 20, 28; Art. VII, §§2, 6. The separation of powers principle exists to prevent tyranny and abuse of power. This principle underlies the unique position of the Attorney General with respect to other state officers or agencies to which he provides legal services. An ordinary private sector type attorney-client relationship is not consistent with this principle in the context of the Attorney General's representation of other state officers or agencies. See Schnapper, *Legal Ethics and the Government Lawyer*, 32 *Record of the Ass'n of the Bar of the City of N.Y.*, 649, 653 (1977) ("The very purpose of providing for the election of such legal counsel {referencing an elected attorney general} is to assure their independence from other elected and appointed officials.").

In sum, the Attorney General represents the people of the State and not simply the State official or agency to which he may be providing legal services.

The role of the Attorney General when he represents the Commonwealth and State officers in legal matters is markedly different from the function of the administrative officials for whom he appears. Not only does the Attorney General represent the Commonwealth as well as the members of the Commission and the Personnel Administrator in accordance with G.L. c. 12, §3, 'h}e also has a common law duty to represent the public interest. . . Thus, when an agency head recommends a course of action, the Attorney General must consider the ramifications of that action on the interests of the Commonwealth and the public generally, as well as on the official himself and his agency. To fail to do so would be an abdication of official responsibility.

Weaver, 570 So.2d at 681 (quoting Feeney, 366 N.E.2d at 1266) (emphasis added). See also Secretary of Admin. & Fin. v. Attorney General, 326 N.E.2d 334, 338 (Mass. 1975); D'Amico v. Board of Medical Examiners, 520 P.2d 10, 21 (Cal. 1974).

A few courts have held the Attorney General is in a traditional attorney-client relationship with state officials and agencies. However, such decisions are clearly a minority view. In State ex rel. Caryl v. MacQueen, 385 S.E.2d 646 (W.Va. 1989), a dispute arose involving the Attorney General and the Tax Commissioner. The court stated:

We are concerned, however, about the Attorney General's cavalier attitude regarding the dissemination of information to which he became privy in the course of his position as Attorney General. Thus, we choose to address the remaining issue of whether the relationship between the Attorney General and the State Tax Commissioner is that of an attorney to client, which would have precluded the Attorney General from disclosing the . . . tax compromise information existing in his files.

Id. at 647.

The court concluded "the relationship between the Attorney General and the Tax Commissioner is clearly one of an attorney to his client and shall be treated as such by the Attorney General with regard to the confidentiality of the information." Id. at 649.

The MacQueen decision appears to be the result of the West Virginia Supreme Court taking sides in a political dispute rather than the result of a reasoned legal analysis. First of all, and perhaps most importantly, the MacQueen court cites no legal authority whatsoever for its conclusion. Second, the issue of confidentiality was not even before the court. See id. at 650, McHugh, J. dissenting. Third, the MacQueen court incorrectly stated, "we find {no} authority for the Attorney General's proposition that he acted as an independent executive officer." Id. at 648. The authorities are numerous to the contrary.

The reason the MacQueen decision is at odds with the vast majority of cases, and cannot be relied upon as precedent, is that West Virginia has adopted a unique view of the authority of its attorney general. In Manchin v. Browning, 296 S.E.2d 909 (W.Va. 1982), the court held that, "the Attorney General of West Virginia does not possess the common law powers attendant to that office in England and in British North America during the colonial period." The court based its holding on the historical development of the office of the attorney general in West Virginia. The office was part of the judicial branch of government under a previous constitution. The court held "his return to the executive department did not revive the common law powers of the office." Id. at 915. The court then concluded:

The {West Virginia} Legislature has thus created a traditional attorney-client relationship between the Attorney General and the State officers he is required to represent. It is well settled that in the control of litigation, the Attorney General has the duty to conform his conduct to that presented by the rules of professional ethics . . . As a lawyer and an officer of the courts of this State, the Attorney General is subject to the rules of this Court governing the practice of law and the conduct of lawyer, which have the force and effect of law. . . .

Among the codified rules of this Court to which the Attorney General must conform his conduct is the Code of Professional Responsibility which is applicable to all lawyers in this state. Briefly, the Code mandates that the Attorney General . . . shall preserve the confidence and secrets of a client. . . .

Id. at 920.

The Manchin court acknowledged that in other jurisdictions "the Attorney General retains the common law powers and duties of his office," and that in other jurisdictions {including Nebraska} attorneys general "ha{ve} exclusive control of litigation." Id. at 921, n.6. This is particularly significant since the court in MacQueen based its conclusion that the West Virginia Attorney General was in an attorney-client relationship with the Tax Commissioner, in part, on the fact that "the Tax Commissioner, like any other client in an attorney-client relationship, was not required to accept that advice {of the attorney general}." MacQueen, 385 S.E. 2d at 648-49. The Manchin court recognized this was contrary to the majority rule, and specifically cited a Nebraska case as an example. Manchin, 296 S.E.2d at 921, n.6 (citing State ex rel. Board of Transportation v. Fremont, E. & M.V.R. Co., 22 Neb. 313, 35 N.W. 118 (1887)).

Even under the unique circumstances present in West Virginia, one justice wrote a scathing dissent to Manchin. He stated "let me disassociate myself entirely from any suggestion of impropriety the Attorney General may infer from the majority's lengthy peroration on professional ethics. To the extent that the majority finds in the Code of Professional Responsibility guidance about the political role of the office of the Attorney General, I disagree." Id. at 923, Neely, J., dissenting. In his dissent, Justice Neely noted "Sir William Holdsworth explains at some length the political forces which, by the end of the fifteenth century in England, 'have caused the king's attorney to become an official wholly different from the ordinary professional attorney, and have thus given to his office a wholly unique character.'" Id. at 923, n.1. "His primary duty has always been, is now, and should always be to the State. In this sense, State officials are not entitled to the services of the office of the Attorney General in a traditional attorney-client relationship." Id. (emphasis added).

Another case taking a minority view was Tice v. Department of Transp., 312 S.E.2d 241 (N.C. App. 1984). In Tice, the court held the attorney general of North Carolina could not enter a consent judgment without the consent of the agency involved. "We believe. . . that the legislature intended that when the Attorney General represents a state department . . . the traditional attorney-client relationship should exist." Id. at 245. As discussed above, this is contrary to the majority view. It is not clear that Tice even represents the law in North Carolina, as it is a decision of an intermediate appellate court. In Martin v. Thornburg, 359 S.E.2d 472 (N.C. 1987), the North Carolina Supreme Court stated, "In the absence of explicit legislative expression to the contrary, the attorney general possesses entire dominion over every civil suit instituted by him in his official capacity . . . , and his authority extends as well to control of defense of civil suits against the state, its agencies, and officers. Id. at 479 (quoting 7A C.J.S. Attorney General §12 (1980)). See also Hendon v. North Carolina State Bd. of Elections, 633 F.Supp. 454 (W.D.N.C. 1986). In Hendon, the court distinguished Tice. The court also noted,

Because the common law is in full force and effect in North Carolina . . . and bearing in mind the axiom that statutes in derogation of the common law must be strictly construed . . . the court must resolve any ambiguity in North Carolina statutory provisions defining the reach of the Attorney General's authority in favor of a broader scope consistent with the common law.

Id. at 458-59 (quoting Nash County Board of Education v. Biltmore, 464 F.Supp. 1027 (E.D.N.C. 1978), aff'd, 640 F.2d 484 (4th Cir. 1981) (emphasis added).

In Indiana State Highway Com'n v. Morris, 528 N.E.2d 468 (Ind. 1988), one judge wrote a concurring opinion in which he discussed the attorney-client relationship. "The relationship of attorney and client clearly applies to the Attorney General and the state agencies he presents, and the attorney-client privilege should protect communications exchanged in that relationship." Id. at 474, Shepard, C.J. concurring. Aside from the fact that the opinion is only a concurring opinion and is entirely dicta, the more important point is that the judge's conclusion is in the context of the state's right to prevent disclosure of documents to adverse parties. The judge did not discuss the attorney-client relationship in terms of the Attorney General's ability to voluntarily disclose information, but rather in terms of the State's ability to prevent discovery, by legal opponents, of documents provided to the attorney general by agencies in anticipation of litigation. There is no question the Attorney General, on behalf of the State, may withhold documents or information from discovery in this context.

Finally, in Robinson v. State, 63 N.W.2d 521 (N.D. 1954), the court held the attorney general could not compromise a subrogation claim of the Workmen's Compensation Bureau.

{W}e have reached the conclusion that the relationship of the Attorney General and the Workmen's Compensation Bureau with respect to litigation in which the Bureau is involved is no more or less than the ordinary relationship of attorney and client and that it should be governed by the rules which govern that relationship.

Id. at 524. This holding, of course, is contrary to the majority rule and, more important, is contrary to Nebraska law. See State v. State Board of Equalization and Assessment, 123 Neb. 259, 261 (1932); State v. F.E. & M.V.R.R., 22 Neb. 313, 35 N.W.178 (1887).

In sum, the majority rule is that the Attorney General represents the public generally, and not just the particular agency or official which may be involved. See Weaver, 570 So.2d at 683 (quoting E.P.A. v. Pollution Control Bd., 372 N.E.2d 50 (1977)) ("He or she is the law officer of the people"). As the Weaver court noted, "the Attorney General's responsibility is not limited to serving or representing the particular interests of state agencies . . . but embraces serving or representing the broader interests of the State." Id.

The unique character of the office of the Attorney General obviously precludes the existence of an ordinary private sector type "attorney-client" relationship as contemplated by Canon 4 of the Code of Professional Responsibility. The Attorney General is sui generis.

2. Exceptions to DR 4-101(B)

Several exceptions to Canon Four are recognized in the Code of Professional Responsibility. Ethical Consideration 4-2(EC 4-2) provides:

The obligation to protect confidences and secrets obviously does not preclude a lawyer from revealing information when his client consents after full disclosure, when necessary to perform his professional employment, when permitted by a Disciplinary Rule, or when required by law.

As previously noted in this opinion, a private attorney representing a private client may not institute or settle litigation without the client's consent. The Attorney General, on the other hand, is authorized by common law and by statute to make those decisions, and all other decisions relating to litigation, for and on behalf of his clients the people of the State of Nebraska. Therefore, as the authorized decision maker for his clients, the Attorney General is authorized to consent to the disclosure by his office of such information as he considers in the best interest of the people of the State of Nebraska.

Also, the Attorney General's professional employment requires that the Attorney General keep his clients, the people of Nebraska, informed concerning the legal matters in which they have an interest. See In re Conduct of Lasswell, 673 P.2d 855, 858 (Or. 1983)

(recognizing the right of an attorney who is an elected public official to account to the public for the conduct of his or her office and related law enforcement activities). Therefore, under EC 4-2 the Attorney General is authorized to disclose information to the public in order to carry out his duties as their lawyer.

EC 4-2 also authorizes disclosure of information when authorized or required by law. Under Nebraska law, the business of the State is generally to be conducted publicly. Neb.Rev.Stat. §84-1408 provides as follows: "It is hereby declared to be the policy of this State that the formation of public policy is public business and may not be conducted in secret." The Nebraska Supreme Court has quoted this provision and has concluded §84-1408 is "a statutory commitment to openness in government." Grein v. Board of Education, 216 Neb. 158, 162-163, 343 N.W.2d 718 (1984).

The Legislature has in effect authorized and/or required that the State's legal business be conducted in public to the maximum extent possible without unreasonably endangering the legal interests of the people of Nebraska.

II. Conclusion

The legal relationships between the Attorney General of Nebraska and state agencies and officials to whom he provides legal services are not traditional "attorney-client relationships" as contemplated under Canon 4 of the Code of Professional Responsibility. Thus, DR 4-101(B) is not applicable in this context.

In legal matters, the Attorney General is the authorized decision-maker for his clients, the people of the State of Nebraska. As the Chief Legal Officer of the State, charged with the control of the State's litigation, the Attorney General has the power and responsibility to decide what information (not defined by law to be a public record) is to be kept confidential and what information is to be disclosed in the interest of the people of the State of Nebraska. If these decisions adversely affect the State's legal proceedings the Attorney General is answerable to his clients, the people of Nebraska at the next election.

To the extent any confusion exists on the part of government officers, agents, boards, or commissions as to the matter of legal representation and communication, this opinion shall serve as notice that such representation and communication is subject to discretionary disclosure by the Attorney General pursuant to the Attorney General's constitutional, statutory and common law powers and duties as outlined in this opinion.

Respectfully submitted,
DON STENBERG
Attorney General

(Signed) Steve Grasz

Deputy Attorney General

3-472-3

cc: Clerk of the Legislature

REPORTS

The following reports were received by the Legislature:

Statements of deposits from the Department of Roads to the Highway Cash fund and Roads Operation Cash fund for July and August 1992 in compliance with section 66-4,144, R.S. Supp. 1991.

Report from the Governor's Policy Research Office covering the financial condition of the Natural Gas Revolving Loan Fund for the quarter ending June 30, 1992 as required by Section 010 of the regulations for the Municipal Natural Gas Regulation Act (Sec. 19-4617, R.R.S. 1943).

Quarterly report from the Nebraska Investment Finance Authority (NIFA) on the use of the proceeds of the 1992 A-D Single Family Issue pursuant to Neb. Rev. Stat. § 58-270(4).

Annual report from the Department of Correctional Services addressing juvenile commitments, placements, and evaluations at the youth development centers as required by LB 663, Section 15, 1989.

Annual report from the University of Nebraska.

Annual report from the Nebraska Intergovernmental Data Communications Advisory Council.

Report from the Coordinating Commission for Postsecondary Education of the Comprehensive Statewide Plan for Postsecondary Education in accordance with LB 663, 1991.

Report from the Department of Environmental Quality of the determination of the biodegradability, photodegradability, availability, environmental impact and fate of degradable disposable diapers in Nebraska as required by LB 325, The Degradable Products Act, 1989.

Annual report and plan of work from the Natural Resources Commission for the Nebraska State Water Planning and Review Process in accordance with section 2-15,106 of the Nebraska Revised Statutes.

Report from the Coordinating Commission for Postsecondary Education on budget review recommendations and capital construction budget review recommendations for the 1993-1995 biennium.

Report from the Department of Revenue of the examination and audit by the State Tax Commissioner of the books, accounts, vouchers, records, and expenditures of the office of the Auditor of Public Accounts of the State of Nebraska for the fiscal year ended June 30, 1991 in accordance with the provisions of Statute 81-106.

Report from the State Treasurer's office for the period ending July 1992.

MOTION - Notify Governor

Mr. L. Johnson moved that the President appoint a committee of five to notify the Governor that the Legislature is now convened, organized, and ready for the transaction of business and to return with any message the Governor may have for this, the Third Special Session of the Ninety-Second Legislature.

The motion prevailed.

The Chair appointed Messrs. Hefner, Chizek, Peterson, Lamb, and Mrs. Hillman to serve on said committee.

The Committee escorted Governor E. Benjamin Nelson to the rostrum where he spoke to the members of the Legislature.

The Committee escorted Governor Nelson from the Chamber.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 1. Introduced by Speaker Baack, 47, at the request of the Governor.

A BILL FOR AN ACT relating to appropriations; to amend Laws 1991, LB 760, sections 1 to 8 and 10; Laws 1991, LB 843, sections 9 to 11, 13, 14, 17, 20, 22, 23, 25, 26, 30, 31, 33 to 35, 37, 39, 40, 47, 49, 50, 54, 55, 63, 65 to 69, 74 to 77, 79, 82, 85, 90, and 93; Laws 1991, LB 844, section 43; Laws 1991, LB 847, sections 20 and 21; Laws 1992, LB 447A, section 2; and Laws 1992, LB 1022, sections

50, 53, 55 to 70, 72, 73, 76, 77, and 82; to change certain appropriations as prescribed; to appropriate funds; to state intent; to repeal the original sections, and also Laws 1992, LB 1022, section 83; and to declare an emergency.

LEGISLATIVE BILL 2. Introduced by Speaker Baack, 47, at the request of the Governor.

A BILL FOR AN ACT relating to funds; to amend sections 83-145 and 83-150, Reissue Revised Statutes of Nebraska, 1943, and section 9-420, Uniform Commercial Code; to rename a fund; to authorize and provide for transfers of funds; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 3. Introduced by Speaker Baack, 47, at the request of the Governor.

A BILL FOR AN ACT relating to schools and school districts; to amend section 79-445, Revised Statutes Supplement, 1992; to eliminate reimbursement provisions for education costs of wards of the state or a court; to provide an operative date; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 4. Introduced by Wesely, 26, at the request of the Governor.

A BILL FOR AN ACT relating to persons with developmental disabilities; to amend section 83-1216, Revised Statutes Supplement, 1992; to change dates related to the Developmental Disabilities Services Act; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 5. Introduced by Wesely, 26, at the request of the Governor.

A BILL FOR AN ACT relating to medical assistance; to amend section 68-1019, Reissue Revised Statutes of Nebraska, 1943; to provide a duty for the Director of Social Services; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 6. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Crosby, 29; Hillman, 48; Robinson, 16.

A BILL FOR AN ACT relating to the Public Service Commission; to amend section 86-803, Revised Statutes Supplement, 1992; to reduce the number of commissioners from five to three; to harmonize provisions; and to repeal the original sections, and also sections 75-101.01 to 75-101.03, Revised Statutes Supplement, 1992.

LEGISLATIVE BILL 7. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Crosby, 29; Hillman, 48; L. Johnson, 15; Robinson, 16.

A BILL FOR AN ACT relating to the Nebraska Liquor Control Act; to amend sections 53-117, 53-123.15, 53-160, 53-161, and 53-164.01, Revised Statutes Supplement, 1992; to provide for collection of liquor taxes by the Department of Revenue; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 8. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Crosby, 29; Hillman, 48; L. Johnson, 15; Robinson, 16.

A BILL FOR AN ACT relating to capital construction; to amend section 81-1712, Reissue Revised Statutes of Nebraska, 1943, and sections 81-1108.16 and 81-1108.41, Revised Statutes Supplement, 1992; to change provisions relating to a new facility program statement; to change provisions relating to the evaluation of professional services; to eliminate provisions relating to capital construction projects and highway construction projects; to harmonize provisions; and to repeal the original sections, and also sections 81-1108.09, 81-1108.43, and 81-1711, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 9. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Crosby, 29; Hillman, 48; L. Johnson, 15; Robinson, 16.

A BILL FOR AN ACT relating to state colleges and universities; to amend sections 85-1,113 and 85-1,114, Reissue Revised Statutes of Nebraska, 1943, and sections 77-2602 and 85-122, Revised Statutes Supplement, 1992; to change the distribution of cigarette tax proceeds; to change and provide for capital construction projects; to authorize contracts; to require reports; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 10. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Hillman, 48; L. Johnson, 15; Robinson, 16.

A BILL FOR AN ACT relating to the Nebraska National Guard; to amend sections 85-505 and 85-505.01, Revised Statutes Supplement, 1992; to change tuition assistance provisions as prescribed; to provide an operative date; and to repeal the original sections.

LEGISLATIVE BILL 11. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Hillman, 48; L. Johnson, 15; Robinson, 16.

A BILL FOR AN ACT relating to cigarette tax; to amend section 77-2602, Revised Statutes Supplement, 1992; to change the amount of proceeds distributed to the Municipal Infrastructure Redevelopment Fund; to harmonize provisions; to provide an operative date; and to repeal the original section.

LEGISLATIVE BILL 12. Introduced by Warner, 25.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the expenses incurred during the Ninety-second Legislature, Third Special Session, 1992; and to declare an emergency.

LEGISLATIVE BILL 13. Introduced by Lindsay, 9, at the request of the Governor.

A BILL FOR AN ACT relating to parole; to amend sections 83-188, 83-191, 83-192, 83-1,100, 83-1,113, 83-1,127, and 83-1,135, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to the powers and duties of the Board of Parole, the Office of Parole Administration, and the Department of Correctional Services; to provide for payment of salaries; to provide for transfer of certain items as prescribed; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 14. Introduced by Lindsay, 9, at the request of the Governor.

A BILL FOR AN ACT relating to state government; to amend sections 9-807, 48-197, 49-14,121, 81-1108, 81-1113, 81-1301, 81-1302, 81-1303, 81-1305, 81-1306, 81-1307, 81-1311, 81-1312, 81-1318, 81-1318.01, 81-1318.02, 81-1329, 81-1334, 81-1353, 81-1357, 81-1371, 81-1374, 81-1376, 84-1001, and 84-1511, Reissue Revised Statutes of

Nebraska, 1943, and sections 49-617, 81-8,220, 81-8,239.01, 81-1373, 84-1602, 84-1603, 84-1605, and 84-1606, Revised Statutes Supplement, 1992; to eliminate the Department of Personnel and create the personnel division of the Department of Administrative Services; to transfer powers and duties; to transfer the Division of Employee Relations to the Department of Administrative Services; to create the risk management and state claims division of the Department of Administrative Services; to authorize appointment of a secretary to the State Claims Board; to transfer administration of risk management and claims against the state to the department; to define and redefine terms; to harmonize provisions; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 15. Introduced by Appropriations Committee: Moore, 24, Chairperson; Bernard-Stevens, 42; Hillman, 48; L. Johnson, 15; Robinson, 16.

A BILL FOR AN ACT relating to the Special Education Act; to amend section 79-3333, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to state reimbursement for minor building modifications; and to repeal the original section.

LEGISLATIVE BILL 16. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Crosby, 29; L. Johnson, 15; Robinson, 16.

A BILL FOR AN ACT relating to park permits; to amend sections 37-1105 and 37-1107.01, Reissue Revised Statutes of Nebraska, 1943; to change fees; to change provisions relating to duplicate annual permits; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

LEGISLATIVE BILL 17. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Hillman, 48; L. Johnson, 15; Robinson, 16.

A BILL FOR AN ACT relating to athletics; to amend sections 11-201 and 81-8,134, Reissue Revised Statutes of Nebraska, 1943, and section 33-150, Revised Statutes Supplement, 1992; to eliminate provisions relating to the State Athletic Commissioner, the State Athletic Commissioner's Fund, the Athletic Advisory Committee, and the Attorney General; to harmonize provisions; to provide an operative date; to repeal the original sections, and also sections 81-8,128 to 81-8,130.01, 81-8,132 to 81-8,133.01, 81-8,135 to 81-8,139, and 81-8,141 to 81-8,142.01, Reissue Revised Statutes of Nebraska, 1943,

and section 81-8,139.01, Revised Statutes Supplement, 1992; and to declare an emergency.

LEGISLATIVE BILL 18. Introduced by Appropriations Committee: Moore, 24, Chairperson; Ashford, 6; Bernard-Stevens, 42; Crosby, 29; Hillman, 48; L. Johnson, 15; Robinson, 16.

A BILL FOR AN ACT relating to the Department of Environmental Quality; to amend sections 81-1505 and 81-1505.01, Revised Statutes Supplement, 1992; to provide for fees; to harmonize provisions; and to repeal the original sections.

LEGISLATIVE BILL 19. Introduced by Appropriations Committee: Moore, 24, Chairperson; Hillman, 48; L. Johnson, 15; Robinson, 16; Wehrbein, 2.

A BILL FOR AN ACT relating to schools and school districts; to amend section 79-1103.05, Revised Statutes Supplement, 1992; to change provisions relating to payment of tuition for students attending high school outside the state; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 20. Introduced by Lindsay, 9, Wesely, 26, at the request of the Governor.

A BILL FOR AN ACT relating to infants; to amend section 43-504, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to aid to dependent children payments as prescribed; to repeal the original section; and to declare an emergency.

LEGISLATIVE BILL 21. Introduced by Nelson, 35.

A BILL FOR AN ACT relating to the Youth Leadership Academy Act; to amend sections 79-3602 to 79-3604, Revised Statutes Supplement, 1992; to eliminate provisions relating to the Youth Leadership Academy Act; to harmonize provisions; and to repeal the original sections, and also sections 50-1001 to 50-1009, Revised Statutes Supplement, 1992.

MOTION - Suspend Rules

Mr. Moore moved to suspend Rule 5, Section 6(a) to waive the requirement that the Fiscal Analyst have fiscal notes prepared prior to the public hearing.

The Moore motion to suspend the rules prevailed with 31 ayes, 0 nays, 8 present and not voting, and 10 excused and not voting.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 22. Introduced by Withem, 14.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend section 79-3806, Revised Statutes Supplement, 1992; to change provisions relating to minimum amounts of state aid; and to repeal the original section.

LEGISLATIVE BILL 23. Introduced by Withem, 14.

A BILL FOR AN ACT relating to the Tax Equity and Educational Opportunities Support Act; to amend section 79-3805, Revised Statutes Supplement, 1992; to change provisions relating to calculation of tiered cost per student; and to repeal the original section.

LEGISLATIVE BILL 24. Introduced by Withem, 14.

A BILL FOR AN ACT relating to state aid to schools; to amend section 79-3804, Revised Statutes Supplement, 1992; to change provisions relating to dedicated state income tax receipts; and to repeal the original section.

LEGISLATIVE BILL 25. Introduced by Moore, 24.

A BILL FOR AN ACT relating to county government; to amend sections 23-1216, 23-1218, and 23-1222, Reissue Revised Statutes of Nebraska, 1943; to change mandatory provisions relating to continuing education for county attorneys and deputy county attorneys as prescribed; to change the duties of the Nebraska Commission on Law Enforcement and Criminal Justice; to eliminate penalties; to harmonize provisions; and to repeal the original sections and also sections 23-1217 and 23-1219 to 23-1221, Reissue Revised Statutes of Nebraska, 1943.

UNANIMOUS CONSENT - Members Excused

Messrs. Rogers and Chizek asked unanimous consent to be excused until they return. No objections. So ordered.

EASE

The Legislature was at ease from 2:22 p.m. until 2:54 p.m.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 1 through 25 and Governor appointments.

LB	Committee
1	Appropriations
2	Appropriations
3	Education
4	Health and Human Services
5	Health and Human Services
6	Government, Military and Veterans Affairs
7	Revenue
8	Appropriations
9	Appropriations
10	Government, Military and Veterans Affairs
11	Appropriations
12	General File
13	Judiciary
14	Government, Military and Veterans Affairs
15	Education
16	Natural Resources
17	Government, Military and Veterans Affairs
18	Natural Resources
19	Education
20	Health and Human Services
21	Government, Military and Veterans Affairs
22	Education
23	Education
24	Education
25	Government, Military and Veterans Affairs

Government, Military and Veterans Affairs

Sharon Emery - Accountability and Disclosure Commission

Transportation

Marlin Armbruster - Motor Vehicle Industry Licensing Board

Judiciary

Ethel Landrum - Nebraska State Parole Board

Natural Resources

Larry Schnase - Nebraska State Power Review Board

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

NOTICE OF COMMITTEE HEARINGS

Natural Resources

Governor Appointment Tuesday, September 22, 1992 9:30 a.m.
Larry Schnase - Power Review Board

(Signed) Rod Johnson, Chairperson

Education

Governor Appointment Friday, September 25, 1992 1:15 p.m.
Patrick G. Rogers - Educational Lands and Funds

(Signed) Ron Withem, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Mr. Wehrbein asked unanimous consent to have his name added as cointroducer to LBs 15, 16, 17, and 18. No objections. So ordered.

ADJOURNMENT

At 2:56 p.m., on a motion by Mr. Wehrbein, the Legislature adjourned until 10:00 a.m., Tuesday, September 22, 1992.

Patrick J. O'Donnell
Clerk of the Legislature



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SECOND DAY - SEPTEMBER 22, 1992

LEGISLATIVE JOURNAL

SECOND DAY - SEPTEMBER 22, 1992

LEGISLATIVE JOURNAL

**NINETY-SECOND LEGISLATURE
THIRD SPECIAL SESSION**

SECOND DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, September 22, 1992

Pursuant to adjournment, the Legislature met at 10:03 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Messrs. Byars, Dierks, Hall, Rogers, Wickersham, and Mrs. Robak who were excused; and Messrs. Abboud, Ashford, Bernard-Stevens, Coordsen, Hartnett, Horgan, Kristensen, Landis, Lindsay, Moore, Robinson, Wehrbein, Mmes. Crosby, Hillman, Labedz, Pirsch, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the first day was approved.

REPORT

Received minutes from the Department of Roads of the Board of Public Roads Classifications and Standards for July 17, 1992.

NOTICE OF COMMITTEE HEARINGS
Appropriations

Monday, September 21, 1992, Room 1517 10:00 a.m. to 12:00 noon

Agency 82 - Hearing Impaired

Agency 03 - Legislative Council

Agency 08 - Lt. Governor

Agency 09 - Secretary of State

Agency 10 - State Auditor

Agency 11 - Attorney General

Agency 12 - State Treasurer

Agency 23 - Labor

Agency 27 - Roads

Agency 28 - Veterans Affairs

Agency 32 - Educational Lands and Funds

Agency 34 - Library Commission

Agency 37 - Worker's Compensation

Agency 38 - Status of Women

Agency 43 - Athletic Commissioner

Agency 47 - Educational Telecommunications

Monday, September 21, 1992, Room 1517

4:00 p.m.

Agency 54 - Historical Society

Agency 55 - Natural Resources

Agency 67 - Equal Opportunity Commission

Agency 68 - Mexican-American Commission

Agency 69 - Arts Council

Agency 70 - Foster Care Review Board

Agency 71 - Department on Aging

Agency 76 - Indian Affairs Commission

Agency 80 - Personnel

Agency 87 - Accountability/Disclosure

Agency 90 - Branch Rail Council

Tuesday, September 22, 1992, Room 1517

9:00 a.m. to 10:30 a.m.

Agency 26 - Social Services

Tuesday, September 22, 1992, Room 1517

10:30 a.m. to 12:00 noon

Agency 20 - Health

Agency 25 - Public Institutions

Tuesday, September 22, 1992, Room 1517

2:00 p.m. to 4:00 p.m.

Agency 07 - Governor

Agency 14 - Public Service Commission

Agency 16 - Revenue

Agency 19 - Banking
 Agency 35 - Liquor Control
 Agency 24 - Motor Vehicles
 Agency 31 - Military Department
 Agency 65 - Administrative Services
 Agency 89 - State Claims Board

Tuesday, September 22, 1992, Room 1517 4:00 p.m. to 5:30 p.m.

Agency 18 - Agriculture
 Agency 29 - Water Resources
 Agency 33 - Game and Parks
 Agency 84 - Environmental Quality

Wednesday, September 23, 1992, Room 1517 9:00 a.m. to 10:00 a.m.

Agency 13 - Education
 Agency 48 - Coordinating Commission

Wednesday, September 23, 1992, Room 1517 10:00 a.m. to 12:00 noon

Agency 50 - State Colleges
 Agency 51 - University of Nebraska

Wednesday, September 23, 1992, Room 1517 1:00 p.m. to 3:30 p.m.

Agency 46 - Correctional Services
 Agency 64 - State Patrol

Wednesday, September 23, 1992, Room 1517 3:30 p.m. to 5:00 p.m.

Agency 05 - Supreme Court
 Agency 15 - Pardons and Parole
 Agency 78 - Crime Commission
 Agency 21 - Fire Marshal
 Agency 77 - Industrial Relations
 Agency 72 - Economic Development

LB 9 Wednesday, September 23, 1992 11:30 a.m.
 (Defer certain construction projects - LB 760 projects)

LB 2 Wednesday, September 23, 1992 3:00 p.m.
 (UCC/Corrections cash fund lapse)

LB 11 Thursday, September 24, 1992 9:00 a.m.
 (Changes in MIFR funding)

LB 8 Thursday, September 24, 1992 9:00 a.m.
 (Relating to Capital Construction)

LB 1 Thursday, September 24, 1992 9:00 a.m.
(Main budget bill - for general comments)

(Signed) Scott Moore, Chairperson

Revenue

LB 7 Thursday, September 24, 1992 1:00 p.m.

(Signed) Timothy Hall, Chairperson

Natural Resources

LB 16 Wednesday, September 23, 1992 upon adjournment
LB 18 Wednesday, September 23, 1992 upon adjournment

(Signed) Rod Johnson, Chairperson

Government, Military and Veterans Affairs

LB 6 Wednesday, September 23, 1992 9:30 a.m.
LB 10 Wednesday, September 23, 1992 9:30 a.m.
LB 14 Wednesday, September 23, 1992 9:30 a.m.
LB 17 Wednesday, September 23, 1992 9:30 a.m.
LB 21 Wednesday, September 23, 1992 9:30 a.m.
LB 25 Wednesday, September 23, 1992 9:30 a.m.

Governor Appointment Wednesday, September 23, 1992 9:30 a.m.
Sharon Emery - Accountability and Disclosure Commission

(Signed) Gerald Conway, Chairperson

Judiciary

Governor Appointment Wednesday, September 23, 1992 11:00 a.m.
Ethel Landrum - Nebraska State Parole Board

LB 13 Wednesday, September 23, 1992 11:15 a.m.

(Signed) Jerry Chizek, Chairperson

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 26. Introduced by Landis, 46.

A BILL FOR AN ACT relating to unclaimed property; to amend sections 24-345, 25-2717, 69-1301 to 69-1307, 69-1308, 69-1310, 69-1313, 69-1315 to 69-1317, 69-1321, 69-1322, 69-1324, and 69-1329, Reissue Revised Statutes of Nebraska, 1943; to provide for the transfer of funds; to change provisions relating to the holding period of unclaimed property; to provide for the filing of a report; to harmonize provisions; to repeal the original sections; and to declare an emergency.

RESOLUTION**LEGISLATIVE RESOLUTION 1CA.** Introduced by Kristensen, 37.

A resolution to propose amending the Constitution of Nebraska.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

Section 1. That at the primary election in May 1994 there shall be submitted to the electors of the State of Nebraska for approval the following amendment to the Constitution of Nebraska to amend Article X, sections 1 and 3, and repeal Article IV, section 20:

X-1 "Every public utility corporation or common carrier organized or doing business in this state shall report; under oath, ~~to the Railway Commission~~; when required by law, ~~or the order of said Commission~~. The reports ~~so made~~ shall include such matter as may be required by law, ~~or the order of said Commission~~."

X-3 "No public utility corporation or common carrier shall consolidate its stock, property, franchise, or earnings in whole or in part with any other public utility corporation or common carrier owning a parallel or competing property without permission ~~of the Railway Commission~~ as required by law; and in no case shall any consolidation take place except upon public notice of at least sixty days to all stockholders, in such manner as may be provided by law. The Legislature may by law require all public utilities and common carriers to exchange business through physical connection, joint use, connected service, or otherwise."

IV-20 "Article IV, section 20, of the Constitution of Nebraska is repealed."

Sec. 2. That the proposed amendment shall be submitted to the electors in the manner prescribed by the Constitution of Nebraska, Article XVI, section 1, with the following ballot language:

"A constitutional amendment to eliminate the Public Service Commission, and to eliminate references to the Railway Commission.

For

Against".

Referred to the Reference Committee.

EASE

The Legislature was at ease from 10:32 a.m. until 10:54 a.m.

BILL ON FIRST READING

The following bill was read for the first time by title:

LEGISLATIVE BILL 27. Introduced by Wesely, 26.

A BILL FOR AN ACT relating to public health and welfare; to amend sections 43-504 and 68-1020, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to payments to a pregnant woman as prescribed; to change eligibility provisions for medical assistance; to repeal the original sections; and to declare an emergency.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 26 and 27 and legislative resolution 1CA.

LB	Committee
26	Banking, Commerce and Insurance
27	Health and Human Services

LR	Committee
1CA	Transportation

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

NOTICE OF COMMITTEE HEARINGS
Education

LB 3	Thursday, September 24, 1992	1:15 p.m.
LB 15	Thursday, September 24, 1992	1:15 p.m.
LB 19	Thursday, September 24, 1992	1:15 p.m.
LB 22	Thursday, September 24, 1992	1:15 p.m.
LB 23	Thursday, September 24, 1992	1:15 p.m.
LB 24	Thursday, September 24, 1992	1:15 p.m.

(Signed) Ron Withem, Chairperson

Health and Human Services

Tuesday, September 22, 1992	1:30 p.m.
Operating Budget Cuts	

Wednesday, September 23, 1992	1:30 p.m.
ADC Cuts/Medicaid Options	
LB 5	
LB 20	
LB 27	

Thursday, September 24, 1992	10:00 a.m.
Developmental Disabilities	
LB 4	

Governor Appointments	Wednesday, September 23, 1992	1:30 p.m.
David F. Conway - Commission for the Hearing Impaired		
Dr. Richard D. Fitzgerald - Nebraska Board of Health		

(Signed) Don Wesely, Chairperson

Transportation

LR 1CA	Wednesday, September 23, 1992	2:00 p.m.
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Governor Appointment	Monday, September 28, 1992	1:30 p.m.
Marlin O. Armbruster - Motor Vehicle Industry Licensing Board		

(Signed) Doug Kristensen, Chairperson

Banking, Commerce and Insurance

LB 26	Wednesday, September 23, 1992	1:00 p.m.
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(Signed) David Landis, Chairperson

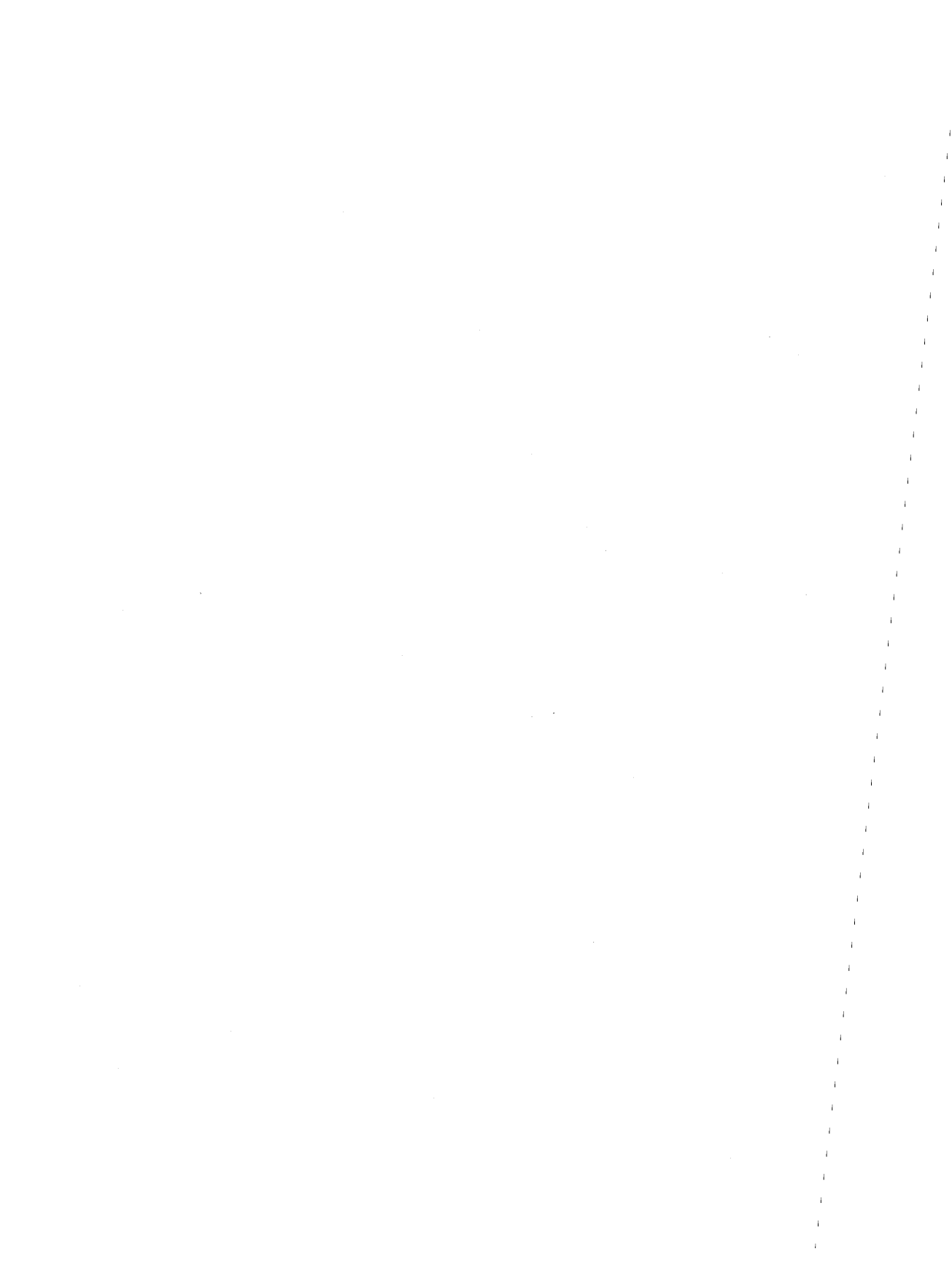
VISITORS

Visitors to the Chamber were Mr. Ivan Stepura from Belarus, Ms. Regina Kosahova, and Mr. Paul Geier; and Sir Fergus Montgomery from Great Britain and Chris Baumert.

ADJOURNMENT

At 10:55 a.m., on a motion by Mr. R. Johnson, the Legislature adjourned until 9:00 a.m., Wednesday, September 23, 1992.

Patrick J. O'Donnell
Clerk of the Legislature



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THIRD DAY - SEPTEMBER 23, 1992

LEGISLATIVE JOURNAL

THIRD DAY - SEPTEMBER 23, 1992

LEGISLATIVE JOURNAL

**NINETY-SECOND LEGISLATURE
THIRD SPECIAL SESSION**

THIRD DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, September 23, 1992

Pursuant to adjournment, the Legislature met at 9:02 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Messrs. Abboud, Ashford, Bernard-Stevens, Beyer, Byars, Dierks, Hall, Horgan, R. Johnson, Lindsay, Lynch, Moore, Rogers, Wickersham, Mmes. Hillman, Rasmussen, and Robak who were excused.

CORRECTIONS FOR THE JOURNAL

The Journal for the second day was approved.

**STANDING COMMITTEE REPORT
Natural Resources**

The Committee on Natural Resources desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Larry Schnase - Nebraska Power Review Board

VOTE: Aye: Senators Beutler, Elmer, R. Johnson, Lamb, Morrissey, and Schmit. Nay: none. Not Voting: none. Absent: Senators Hartnett and Horgan.

(Signed) Rod Johnson, Chairperson

UNANIMOUS CONSENT - Add Cointroducer

Mr. Will asked unanimous consent to have his name added as cointroducer to LB 26. No objections. So ordered.

BILLS ON FIRST READING

The following bills were read for the first time by title:

LEGISLATIVE BILL 28. Introduced by Conway, 17.

A BILL FOR AN ACT relating to the Nebraska Accountability and Disclosure Commission; to amend sections 49-1447, 49-1449 to 49-1451, 49-1462, 49-1484, and 49-14,133, Reissue Revised Statutes of Nebraska, 1943, and sections 49-1461, 49-14,118, 49-14,123, and 49-14,140, Revised Statutes Supplement, 1992; to eliminate enforcement duties of the commission as prescribed; to eliminate late filing fees; to harmonize provisions; and to repeal the original sections, and also sections 49-1446.03, 49-1463, 49-1463.01, and 49-14,124 to 49-14,126, Reissue Revised Statutes of Nebraska, 1943.

LEGISLATIVE BILL 29. Introduced by Chizek, 31.

A BILL FOR AN ACT relating to the Nebraska College of Technical Agriculture at Curtis; to amend sections 85-943 and 85-1413, Revised Statutes Supplement, 1992; to state intent; to state limits on appropriations and on the use of certain funds; to harmonize provisions; to eliminate provisions relating to the college; and to repeal the original sections, and also sections 85-121 and 85-121.03 to 85-121.05, Revised Statutes Supplement, 1992.

LEGISLATIVE BILL 30. Introduced by Conway, 17.

A BILL FOR AN ACT relating to the Commission of Industrial Relations; to eliminate the commission and the Industrial Relations Act; to repeal sections 48-801 to 48-805, 48-807, 48-809 to 48-810.01, 48-811, 48-811.01, 48-813 to 48-819.01, 48-821 to 48-823, 48-837, 48-838, and 48-842, Reissue Revised Statutes of Nebraska, 1943, and

sections 48-806, 48-808, and 48-812, Revised Statutes Supplement, 1992; and to declare an emergency.

EASE

The Legislature was at ease from 9:32 a.m. until 9:44 a.m.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of legislative bills 28, 29, and 30.

LB	Committee
28	Government, Military and Veterans Affairs
29	Education
30	Business and Labor

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

NOTICE OF COMMITTEE HEARINGS **Government, Military and Veterans Affairs**

LB 28 Thursday, September 24, 1992 9:30 a.m.

(Signed) Gerald Conway, Chairperson

Education

LB 29 Thursday, September 24, 1992 1:15 p.m.

(Signed) Ron Withem, Chairperson

Business and Labor

LB 30 Friday, September 25, 1992 12:00 noon

(Signed) George Coordsen, Chairperson

ADJOURNMENT

At 9:44 a.m., on a motion by Mr. Elmer, the Legislature adjourned until 9:00 a.m., Thursday, September 24, 1992.

Patrick J. O'Donnell
Clerk of the Legislature

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FOURTH DAY - SEPTEMBER 24, 1992

LEGISLATIVE JOURNAL

FOURTH DAY - SEPTEMBER 24, 1992

LEGISLATIVE JOURNAL

**NINETY-SECOND LEGISLATURE
THIRD SPECIAL SESSION**

FOURTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, September 24, 1992

Pursuant to adjournment, the Legislature met at 9:06 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Senator Carol Pirsch.

ROLL CALL

The roll was called and all members were present except Messrs. Dierks, Hartnett, Landis, Mmes. Labedz, Rasmussen, and Robak who were excused; and Messrs. Abboud, Beyer, Coordsen, Hall, Horgan, Kristensen, Lindsay, Morrissey, and Warner who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the third day was approved.

**STANDING COMMITTEE REPORT
Government, Military and Veterans Affairs**

LEGISLATIVE BILL 14. Placed on General File.

(Signed) Gerald Conway, Chairperson

REPORT OF REGISTERED LOBBYISTS

In accordance with LB 987, passed in the 1976 session of the Legislature and amended by LB 4 and LB 41 in the 1977 session of

the Legislature, the attached is a list of all Lobbyists who have registered as of September 23, 1992. Further lists listing additional lobbyists who have registered will be filed weekly.

(Signed) Patrick J. O'Donnell
Clerk of the Legislature

Becker, Reynold E. - Schaumburg, IL	Alliance of American Insurers
Berg, Michael D. - Des Moines, IA	GTE-Central
Bleich, Walt - Lincoln	Citizen Action
Clement, Andrew - Lincoln	Citizen Action
Douglas, Robb C. - Lincoln	Association of Students at University of Nebraska Lincoln
Dulaney, Michael S. - Lincoln	Nebraska Council of School Administrators
Lodes, Jennifer Lynn - Lincoln	Association of Students at University of Nebraska Lincoln
Mueller, William J./Knudsen, Berkheimer, et al.	
Mueller, William J. - Lincoln	Nebraska Dental Association
Peterson, Chris - Lincoln	Association of Students at University of Nebraska Lincoln
Radcliffe and Associates	
Radcliffe, Walter H. - Lincoln	State Troopers Association of Nebraska
Ruth, Larry L./Knudsen, Berkheimer, et al.	
Ruth, Larry L. - Lincoln	Nebraska Dental Association
Sellentini, Jerry L. - Lincoln	Nebraska Council of School Administrators

REPORT

Received quarterly report from the Nebraska Business Development Center.

STANDING COMMITTEE REPORT

Judiciary

The Committee on Judiciary desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Ethel Landrum - Nebraska Parole Board, Chairman

VOTE: Aye: Senators Chambers, Chizek, Kristensen, Labedz, Nelson, and Pirsch. Absent: Senators Abboud and Wickersham.

(Signed) Jerry Chizek, Chairperson

MOTION - Suspend Rules

Mr. Wehrbein moved to suspend the rules, Rule 9, Section 2, to permit the introduction of a new bill, Req. 55SS.

Mrs. Crosby moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 1 nay, and 23 not voting.

Mr. Wehrbein moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Mr. Wehrbein requested a roll call vote on his motion to suspend the rules.

Voting in the affirmative, 27:

Ashford	Byars	Hefner	Nelson	Schmit
Baack	Chizek	Hillman	Robinson	Schrock
Bernard-	Conway	Johnson, L.	Rogers	Wickersham
Stevens	Crosby	Johnson, R.	Schellpeper	Will
Beutler	Cudaback	Lamb	Schimek	Withem
Bohlke	Elmer	Moore		

Voting in the negative, 4:

Chambers	Haberman	Peterson	Pirsch
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Present and not voting, 2:

Wehrbein Wesely

Absent and not voting, 1:

Lynch

Excused and not voting, 15:

Abboud	Dierks	Horgan	Landis	Rasmussen
Beyer	Hall	Kristensen	Lindsay	Robak
Coordsen	Hartnett	Labeledz	Morrissey	Warner

The Wehrbein motion to suspend the rules lost with 27 ayes, 4 nays, 2 present and not voting, 1 absent and not voting, and 15 excused and not voting.

The Chair declared the call raised.

Mr. Schmit asked unanimous consent to be excused until he returns.
No objections. So ordered.

STANDING COMMITTEE REPORTS
Government, Military and Veterans Affairs

LEGISLATIVE BILL 21. Placed on General File.

LEGISLATIVE BILL 10. Placed on General File as amended.

Standing Committee amendment to LB 10:

AM14SS

- 1 1. On page 2, line 7, strike "seventy-five",
2 show as stricken, and insert "fifty"; in line 9 strike
3 the new matter and insert "per fiscal year by the state
4 upon payment by such member of twenty-five percent of
5 such tuition. Such university, college, or community
6 college shall absorb twenty-five percent of such tuition
7 in the fiscal year"; and in lines 16 through 25 strike
8 the new matter and reinstate the stricken matter.
- 9 2. On page 3, lines 7 through 9, reinstate
10 the stricken matter; and in lines 12 and 17 strike the
11 new matter and reinstate the stricken matter.

(Signed) Gerald Conway, Chairperson

Health and Human Services

The Committee on Health and Human Services desires to report favorably upon the appointments listed below. The Committee suggests the appointments be confirmed by the Legislature and suggests a record vote.

David F. Conway - Commission for the Hearing Impaired
Dr. Richard Fitzgerald - Nebraska Board of Health

VOTE: Aye: Senators Byars, Cudaback, Rasmussen, Schellpeper, and Wesely. Nay: none. Absent: Senators Beyer and Dierks.

(Signed) Don Wesely, Chairperson

**MOTION - Reconsider Action on Motion
to Suspend Rules**

Mr. Chambers moved to reconsider the action, found in this day's Journal, to suspend the rules, Rule 9, Section 2, to permit the introduction of a new bill.

The Chambers motion to reconsider action lost with 19 ayes, 2 nays, 13 present and not voting, and 15 excused and not voting.

ADJOURNMENT

At 10:01 a.m., on a motion by Mr. Schrock, the Legislature adjourned until 10:00 a.m., Friday, September 25, 1992.

Patrick J. O'Donnell
Clerk of the Legislature

FIFTH DAY - SEPTEMBER 25, 1992

LEGISLATIVE JOURNAL

**NINETY-SECOND LEGISLATURE
THIRD SPECIAL SESSION**

FIFTH DAY

Legislative Chamber, Lincoln, Nebraska
Friday, September 25, 1992

Pursuant to adjournment, the Legislature met at 10:06 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Messrs. Ashford, Beyer, Coordsen, Horgan, Landis, Lindsay, Morrissey, Wehrbein, Withem, Mmes. Labedz, and Nelson who were excused; and Messrs. Beutler, Dierks, Kristensen, Schrock, and Mrs. Robak who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fourth day was approved.

**STANDING COMMITTEE REPORT
Revenue**

LEGISLATIVE BILL 7. Indefinitely postponed.

(Signed) Tim Hall, Chairperson

**NOTICE OF COMMITTEE HEARING
Business and Labor**

LB 30 Friday, September 25, 1992 (Cancelled) 12:00 p.m.

LB 30 Monday, September 28, 1992 (Reset) 12:00 p.m.

(Signed) George Coordsen, Chairperson

STANDING COMMITTEE REPORT
Government, Military and Veterans Affairs

The Committee on Government, Military and Veterans Affairs desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Sharon Emery - Accountability and Disclosure Commission

VOTE: Aye: Senators Conway, Bohlke, Schimek, Schrock, and Withem. Nay: none. Not Voting: none. Absent: Senators Coordsen, Lindsay, and Robak.

(Signed) Gerald Conway, Chairperson

MOTION - Suspend Rules

Mr. Conway moved to suspend the rules, Rule 4, Section 6, to permit consideration of LR 2.

The Conway motion to suspend the rules prevailed with 30 ayes, 0 nays, 5 present and not voting, and 14 excused and not voting.

RESOLUTION

LEGISLATIVE RESOLUTION 2. Introduced by Baack, 47; Conway, 17.

WHEREAS, General Dynamics Electric Boat Division in Groton, Connecticut, has for the past several years been constructing a Trident Submarine bearing the name U.S.S. Nebraska SSBN - 739; and

WHEREAS, on August 15, 1992, more than six hundred Nebraskans gathered at the Electric Boat Division in Groton, Connecticut, for the ceremonies to watch Pat Exon officially christen the boat as the U.S.S. Nebraska; and

WHEREAS, Captain William R. Hansell of Bromall, Pennsylvania, along with crew members including Lieutenant Alvin E. Tarrell, Kearney, Nebraska, Chief Electronics Technician Kirk J. Goergen,

Dakota City, Nebraska, Quartermaster Second Class Michael P. Dishman, Lewellen, Nebraska, Lieutenant Commander Robert K. Zaring, Moore, Oklahoma, Chief Machinist's Mate Paul M. Johnson, Portsmouth, Virginia, Machinist's Mate First Class William C. Day, Accident, Maryland, and Yeoman Third Class Ervin F. Renwick, York, South Carolina, are guests representing the submarine which bears the Nebraska name.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

1. That the Legislature welcomes Captain Hansell and the crew members of the U.S.S. Nebraska to this legislative chamber and to the State of Nebraska and are pleased to adopt this resolution commemorating their visit and wishing them fair seas and following winds.

2. That the Clerk of the Legislature present a copy of this resolution to Captain Hansell and to each of the crew members of the U.S.S. Nebraska.

LR 2 was adopted with 25 ayes, 0 nays, and 24 not voting.

STANDING COMMITTEE REPORTS

Natural Resources

LEGISLATIVE BILL 16. Indefinitely postponed.

LEGISLATIVE BILL 18. Indefinitely postponed.

(Signed) Rod Johnson, Chairperson

Health and Human Services

LEGISLATIVE BILL 20. Placed on General File as amended.

Standing Committee amendment to LB 20:

AM15SS

- 1 1. On page 4, line 19, strike "the effective
- 2 date of this act" and insert "October 31, 1992"; and
- 3 after the period in line 22 insert:
- 4 "(5) Notwithstanding subsection (4) of this
- 5 section, a woman who is receiving or is authorized to
- 6 receive payments for October 1992 under the provisions
- 7 of subsection (2) of this section shall continue to
- 8 receive the payments provided under such subsection.".

(Signed) Don Wesely, Chairperson

Appropriations

LEGISLATIVE BILL 2. Placed on General File.

LEGISLATIVE BILL 11. Placed on General File.

LEGISLATIVE BILL 1. Placed on General File as amended.

Standing Committee amendment to LB 1:

AM18SS

- 1 1.a. Strike original sections 6 to 14; and
- 2 b. On page 92, line 8, strike "The" and
- 3 insert "If Legislative Bill 9, Ninety-second
- 4 Legislature, Third Special Session, 1992, becomes law,
- 5 the"; in line 9 strike "\$5,822,037" and insert
- 6 "\$2,978,070"; in line 11 strike "The" and insert "If
- 7 Legislative Bill 9, Ninety-second Legislature, Third
- 8 Special Session, 1992, becomes law, the"; and in line 12
- 9 strike "\$7,229,336" and insert "\$4,385,369".
- 10 2.a. On page 14, line 10, strike "300,321"
- 11 and insert "295,330"; in line 13 strike "325,321" and
- 12 insert "320,330"; and in lines 18 through 22 strike the
- 13 new matter and reinstate the stricken matter; and
- 14 b. On page 15, lines 8 through 13, strike the
- 15 new matter and reinstate the stricken matter.
- 16 3. On page 20, lines 12 and 13, strike
- 17 "479,712" and insert "465,525"; and in lines 20 and 21
- 18 strike "506,900" and insert "492,713".
- 19 4. On page 21, line 13, strike "\$158,137" and
- 20 insert "\$181,530".
- 21 5. On page 39, after line 15 insert:
- 1 "The reappropriated June 30, 1992, General
- 2 Fund balance is hereby reduced by \$698,000."
- 3 6.a. On page 44, line 18, strike "12,101,658"
- 4 and insert "12,101,657"; and
- 5 b. On page 46, line 20, strike "29,304,854"
- 6 and insert "29,304,853".
- 7 7. On page 69, after line 3 insert:
- 8 "It is the intent of the Legislature that the
- 9 Department of Administrative Services take immediate
- 10 action to develop and implement the Nebraska accounting
- 11 on-line data entry program in such a manner to reduce
- 12 state expenditures. Such planning should result in
- 13 reducing staff by four full-time equivalent employees
- 14 and saving at least \$60,000 in FY1993-94 and \$65,000 in
- 15 FY1994-95."
- 16 8.a. Strike original section 57; and

- 17 b. On page 210, line 9, after "facilities"
 18 insert ". The reappropriated June 30, 1992, General
 19 Fund balance is hereby reduced by \$70,000, and the
 20 reappropriated June 30, 1992, State Building Fund
 21 balance is hereby reduced by \$30,000".
 22 9.a. On page 97, lines 24 and 25, strike
 23 "4,601,033" and insert "4,574,930";
 24 b. On page 98, lines 6 through 9, strike the
 1 new matter and reinstate the stricken matter; in line 16
 2 strike "1,090,635" and insert "1,080,635"; and in line
 3 19 strike "1,120,635" and insert "1,110,635";
 4 c. On page 99, lines 18 through 21, strike
 5 the new matter and reinstate the stricken matter;
 6 d. On page 100, lines 9 and 10, strike
 7 "265,100" and insert "255,100"; and in lines 17 through
 8 20 strike the new matter and reinstate the stricken
 9 matter; and
 10 e. On page 101, lines 2 through 5, strike the
 11 new matter and reinstate the stricken matter.
 12 10.a. On page 106, line 19, strike
 13 "373,719,276" and insert "373,689,373"; and in line 24
 14 strike "416,470,537" and insert "416,440,634"; and
 15 b. On page 110, after line 7 insert:
 16 "The General Fund appropriation and state aid
 17 earmark to this program for FY1992-93 shall be reduced
 18 by \$5,107 if Legislative Bill 19, Ninety-second
 19 Legislature, Third Special Session, 1992, becomes law.";
 20 and in lines 19 through 24 strike the new matter and
 21 reinstate the stricken matter.
 22 11.a. On page 122, lines 20 through 25,
 23 strike the new matter and reinstate the stricken matter;
 24 b. On page 127, lines 17 through 22, strike
 1 the new matter and reinstate the stricken matter;
 2 c. On page 135, reinstate line 22; and strike
 3 line 23; and
 4 d. On page 136, reinstate line 1; strike line
 5 2; in line 13 strike "96,572,384" and insert
 6 "97,429,273"; and in line 17 strike "147,122,709" and
 7 insert "147,979,598".
 8 12. On page 141, after line 8 insert:
 9 "The General Fund appropriation and the state
 10 aid earmark for this program for FY1992-93 shall be
 11 reduced by \$1,206,537 if the change in aid to dependent
 12 children eligibility requirements contained in
 13 Legislative Bill 20, Ninety-second Legislature, Third

- 14 Special Session, 1992, becomes law."
- 15 13. On page 148, after line 13 insert:
- 16 "The General Fund appropriation and state aid
- 17 earmark for this program for FY1992-93 shall be reduced
- 18 by \$813,238 if the change in reimbursements for
- 19 education services provided to wards of the state and
- 20 wards of the court contained in Legislative Bill 3,
- 21 Ninety-second Legislature, Third Special Session, 1992,
- 22 becomes law."
- 23 14.a. On page 166, lines 5 and 14, reinstate
- 24 the stricken matter; and in lines 6 and 14 strike the
- 1 new matter;
- 2 b. On page 170, line 21, strike the new
- 3 matter and reinstate the stricken matter; and
- 4 c. On page 171, lines 1, 7, 14, and 18,
- 5 strike the new matter and reinstate the stricken matter.
- 6 15.a. On page 177, line 13, strike
- 7 "21,792,522" and insert "21,973,479"; and in line 16
- 8 strike "22,335,396" and insert "22,516,353";
- 9 b. On page 178, after line 11 insert:
- 10 "It is the intent of the Legislature that no
- 11 reductions in sworn personnel directly involved in law
- 12 enforcement activities shall occur as a result of the
- 13 across-the-board funding reductions included in this
- 14 act."
- 15 c. On page 180, line 25, strike "21,792,522"
- 16 and insert "21,973,479"; and
- 17 d. On page 181, line 4, strike "25,686,908"
- 18 and insert "25,867,865".
- 19 16.a. On page 184, line 7, strike "909,944"
- 20 and insert "844,944"; and in line 10 strike "1,029,944"
- 21 and insert "964,944";
- 22 b. On page 185, after line 3 insert:
- 23 "It is the intent of the Legislature that the
- 24 Department of Economic Development shall not solicit
- 1 contributions from the Nebraska Investment Finance
- 2 Authority for future Nebraska Development Network
- 3 activities."; and
- 4 c. On page 188, line 5, strike "3,295,839"
- 5 and insert "3,230,839"; and in line 9 strike
- 6 "16,291,604" and insert "16,226,604".
- 7 17. On page 185, after line 3 insert:
- 8 "The unexpended and reappropriated \$125,000
- 9 General Fund appropriation for FY1991-92 to provide
- 10 funding for the Gateway Development Project is hereby

- 11 lapsed."
- 12 18.a. On page 189, line 12, strike
- 13 "1,012,937" and insert "1,013,965"; and in line 16
- 14 strike "5,873,801" and insert "5,874,829";
- 15 b. On page 191, line 21, strike "\$638,551" and
- 16 insert "\$639,579";
- 17 c. On page 192, line 4, strike "119,440.99"
- 18 and insert "120,469.36"; and in lines 10, 15, 20, and 25
- 19 strike "Legal Guardian" and insert "Conservator";
- 20 d. On page 193, line 7, strike "June 30,
- 21 1993" and insert "October 20, 1992"; and in line 20
- 22 strike "act" and insert "section"; and
- 23 e. On page 195, line 9, strike "1,201,093"
- 24 and insert "1,202,121"; and in line 13 strike
- 1 "7,011,957" and insert "7,012,985".
- 2 19. On page 214, line 4, strike "2" and
- 3 insert "3".
- 4 20. Renumber remaining sections accordingly
- 5 and correct repealer accordingly.

LEGISLATIVE BILL 9. Placed on General File as amended.
 Standing Committee amendment to LB 9:
 AM17SS

- 1 1. Insert the following new section:
- 2 "Sec. 8. Since an emergency exists, this act
- 3 shall be in full force and take effect, from and after
- 4 its passage and approval, according to law."

(Signed) Scott Moore, Chairperson

MOTION - Suspend Rules

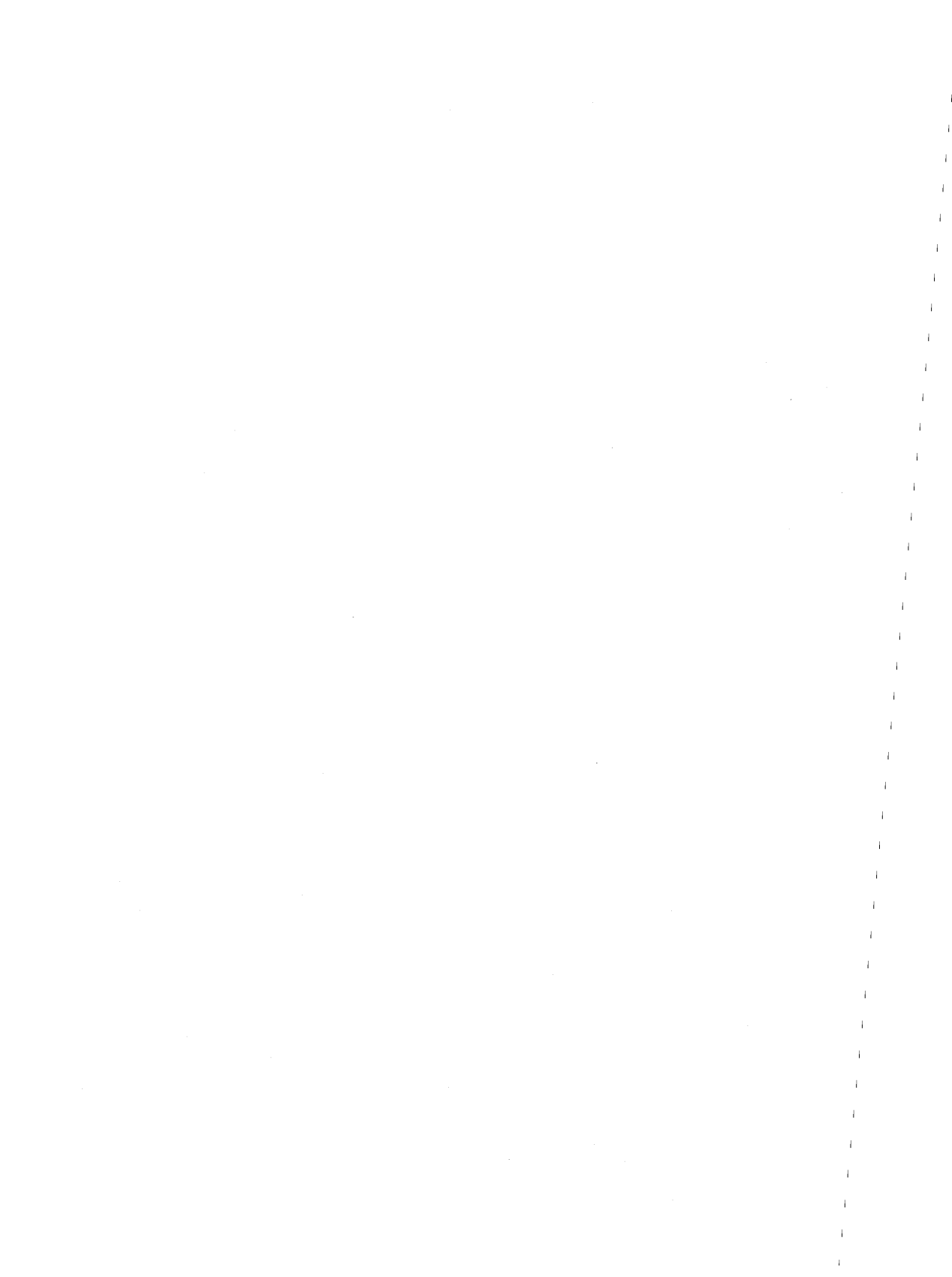
Mr. Moore moved to suspend the rules, Rule 5, Section 6(f)(g) so as to avoid the requirement for introduction and consideration of "A" bills in conjunction with the authorization bill.

Laid over.

ADJOURNMENT

At 10:30 a.m., on a motion by Mrs. Pirsch, the Legislature adjourned until 9:00 a.m., Monday, September 28, 1992.

Patrick J. O'Donnell
 Clerk of the Legislature



printed on recycled paper

SIXTH DAY - SEPTEMBER 28, 1992

LEGISLATIVE JOURNAL

SIXTH DAY - SEPTEMBER 28, 1992

LEGISLATIVE JOURNAL

**NINETY-SECOND LEGISLATURE
THIRD SPECIAL SESSION**

SIXTH DAY

Legislative Chamber, Lincoln, Nebraska
Monday, September 28, 1992

Pursuant to adjournment, the Legislature met at 9:02 a.m., President Moul presiding.

PRAYER

The prayer was offered by Senator LaVon Crosby.

ROLL CALL

The roll was called and all members were present except Mrs. Labedz who was excused; and Messrs. Abboud, Ashford, Beutler, Beyer, Chambers, Conway, Hall, Hartnett, Hefner, R. Johnson, Lindsay, Morrissey, Peterson, Schellpeper, Schrock, Wehrbein, Will, Withem, Mrs. Pirsch, and Ms. Schimek who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the fifth day was approved.

MESSAGES FROM THE GOVERNOR

September 24, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Climate Assessment Response Committee, requiring legislative approval.

APPOINTEE: Larry Sitzman, Department of Agriculture, State Office Building, Lincoln, NE 68509

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

September 24, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Climate Assessment Response Committee, requiring legislative approval.

APPOINTEE: Dick Mercer, R.R. 4, Kearney, NE 68847

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

September 24, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Climate Assessment Response Committee, requiring legislative approval.

APPOINTEE: General Stanley Heng, 1300 Military Road,
Lincoln, NE 68508-1090

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

September, 24, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Climate Assessment Response Committee, requiring legislative approval.

APPOINTEE: Ron Saylor, R.R., Campbell, NE 68932

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

September 24, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Climate Assessment Response Committee, requiring legislative approval.

APPOINTEE: Perry Wigley, Conservation & Survey Division,
113 Agricultural Hall, Lincoln, NE 68588-0703

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

September 24, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Climate Assessment Response Committee, requiring legislative approval.

APPOINTEE: Elbert Dickey, Cooperative Extension Service, 218
Agricultural Hall, Lincoln, NE 68588-0703

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

September 24, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Climate Assessment Response Committee, requiring legislative approval.

APPOINTEE: Jack Daniel, Department of Health, State Office Building, Lincoln, NE 68509-5007

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

September 24, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Climate Assessment Response Committee, requiring legislative approval.

APPOINTEE: Michael Jess, Department of Water Resources,
State Office Building, Lincoln, NE 68509-4676

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

September 24, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Climate Assessment Response Committee, requiring legislative approval.

APPOINTEE: Rod Armstrong, Policy Research Office, State Capitol, Lincoln, NE 68509-4601

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

September, 24, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol Building
Lincoln, NE 68509

Dear Madam President and Senators:

This is to inform the honorable members of the Legislature that I have made the following appointment to the Climate Assessment Response Committee, requiring legislative approval.

APPOINTEE: Dayle Williamson, Natural Resources Commission,
State Office Building, Lincoln, NE 68509-4876

This appointment is respectfully submitted for your consideration.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

STANDING COMMITTEE REPORT **Education**

The Committee on Education desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Patrick G. Rogers - Educational Lands and Funds

VOTE: Aye: Senators Withem, Dierks, Nelson, Schrock, and Chizek.
Nay: none. Absent: Senators Beutler, Lamb, and Warner.

(Signed) Ron Withem, Chairperson

REPORT

Received report from the University of Nebraska regarding the Nebraska Research Initiative.

MOTION - Approve Appointments

Mr. Elmer moved the adoption of the report of the Natural Resources Committee for the following Governor appointment found in the Journal on page 56: Larry Schnase - Nebraska Power Review Board.

Voting in the affirmative, 25:

Baack	Coordsen	Hillman	Lynch	Robinson
Bernard-	Crosby	Horgan	Moore	Schmit
Stevens	Cudaback	Johnson, L.	Nelson	Warner
Bohlke	Dierks	Lamb	Rasmussen	Wesely
Byars	Elmer	Landis	Robak	Wickersham
Chizek				

Voting in the negative, 0.

Present and not voting, 3:

Haberman Kristensen Rogers

Excused and not voting, 21:

Abboud	Conway	Johnson, R.	Peterson	Schrock
Ashford	Hall	Labeledz	Pirsch	Wehrbein
Beutler	Hartnett	Lindsay	Schellpeper	Will
Beyer	Hefner	Morrissey	Schimek	Withem
Chambers				

The appointment was confirmed with 25 ayes, 0 nays, 3 present and not voting, and 21 excused and not voting.

Mr. Wesely moved the adoption of the report of the Health and Human Services Committee for the following Governor appointments found in the Journal on page 63: David F. Conway - Commission for the

Hearing Impaired and Dr. Richard Fitzgerald - Nebraska Board of Health.

Voting in the affirmative, 25:

Bernard-	Crosby	Horgan	Lynch	Schmit
Stevens	Cudaback	Johnson, L.	Moore	Schrock
Bohlke	Dierks	Kristensen	Nelson	Warner
Byars	Elmer	Lamb	Rasmussen	Wesely
Chizek	Hillman	Landis	Robak	Wickersham
Coordsen				

Voting in the negative, 0.

Present and not voting, 4:

Baack	Haberman	Robinson	Rogers
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Excused and not voting, 20:

Abboud	Chambers	Hefner	Morrissey	Schimek
Ashford	Conway	Johnson, R.	Peterson	Wehrbein
Beutler	Hall	Labeledz	Pirsch	Will
Beyer	Hartnett	Lindsay	Schellpeper	Withem

These appointments were confirmed with 25 ayes, 0 nays, 4 present and not voting, and 20 excused and not voting.

Mr. Chizek moved the adoption of the report of the Judiciary Committee for the following Governor appointment found in the Journal on page 61: Ethel Landrum - Nebraska Parole Board, Chairman.

Voting in the affirmative, 26:

Baack	Coordsen	Horgan	Lynch	Schmit
Bernard-	Crosby	Johnson, L.	Nelson	Schrock
Stevens	Cudaback	Kristensen	Rasmussen	Warner
Bohlke	Dierks	Lamb	Robak	Wesely
Byars	Elmer	Landis	Robinson	Wickersham
Chizek	Hillman			

Voting in the negative, 0.

Present and not voting, 3:

Haberman Moore Rogers

Excused and not voting, 20:

Abboud	Chambers	Hefner	Morrissey	Schimek
Ashford	Conway	Johnson, R.	Peterson	Wehrbein
Beutler	Hall	Labeledz	Pirsch	Will
Beyer	Hartnett	Lindsay	Schellpeper	Withem

The appointment was confirmed with 26 ayes, 0 nays, 3 present and not voting, and 20 excused and not voting.

Mr. Coordsen moved the adoption of the report of the Government, Military and Veterans Affairs Committee for the following Governor appointment found in the Journal on page 66: Sharon Emery - Accountability and Disclosure Commission.

Voting in the affirmative, 25:

Bernard-Stevens	Crosby	Horgan	Lynch	Schrock
Beutler	Cudaback	Johnson, L.	Moore	Warner
Bohlke	Dierks	Kristensen	Nelson	Wesely
Conway	Elmer	Lamb	Rasmussen	Wickersham
Coordsen	Hillman	Landis	Robinson	Will

Voting in the negative, 0.

Present and not voting, 7:

Baack	Chizek	Robak	Rogers	Schmit
Byars	Haberman			

Excused and not voting, 17:

Abboud	Hall	Labeledz	Peterson	Schimek
Ashford	Hartnett	Lindsay	Pirsch	Wehrbein
Beyer	Hefner	Morrissey	Schellpeper	Withem
Chambers	Johnson, R.			

The appointment was confirmed with 25 ayes, 0 nays, 7 present and not voting, and 17 excused and not voting.

MOTION - Suspend Rules

Mr. Moore renewed his pending motion, found in the Journal on page 71, to suspend the rules, Rule 5, Section 6(f)(g) so as to avoid the requirement for introduction and consideration of "A" bills in conjunction with the authorization bill.

The Moore motion to suspend the rules prevailed with 30 ayes, 0 nays, 4 present and not voting, and 15 excused and not voting.

STANDING COMMITTEE REPORT Health and Human Services

LEGISLATIVE BILL 4. Placed on General File as amended.
Standing Committee amendment to LB 4:
AM25SS

- 1 1. On page 3, after line 12, insert the
- 2 following new subsection:
- 3 "(7) It is the intent of the Legislature that
- 4 the Department of Public Institutions take all possible
- 5 steps to maximize funding in order to implement
- 6 subsections (4) and (5) of this section prior to the
- 7 date these subsections become entitlements. It is the
- 8 intent of the Legislature that funding sources within
- 9 the Department of Social Services, the State Department
- 10 of Education, specifically including the Division of
- 11 Rehabilitation Services, and other agencies be utilized
- 12 to the maximum extent possible."

(Signed) Don Wesely, Chairperson

GENERAL FILE

LEGISLATIVE BILL 12. Title read. Considered.

Advanced to E & R for review with 25 ayes, 0 nays, 10 present and not voting, and 14 excused and not voting.

LEGISLATIVE BILL 1. Title read. Considered.

Standing Committee amendment, AM18SS, found in the Journal on page 68, was adopted with 30 ayes, 0 nays, 9 present and not voting, and 10 excused and not voting.

Mr. Horgan asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 29 ayes, 0 nays, 11 present and not voting, and 9 excused and not voting.

LEGISLATIVE BILL 2. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 12 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 11. Title read. Considered.

Mr. Schmit asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Moore moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Mr. Moore requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 28:

Baack	Cudaback	Johnson, R.	Peterson	Warner
Bernard-	Dierks	Lamb	Pirsch	Wehrbein
Stevens	Elmer	Lindsay	Rasmussen	Wesely
Beutler	Hall	Lynch	Robak	Wickersham
Bohlke	Hillman	Moore	Schimek	Withem
Coordsen	Johnson, L.	Nelson	Schrock	

Voting in the negative, 14:

Ashford	Conway	Hartnett	Landis	Schmit
Byars	Crosby	Hefner	Robinson	Will
Chizek	Haberman	Kristensen	Rogers	

Present and not voting, 1:

Chambers

Excused and not voting, 6:

Abboud	Horgan	Labadz	Morrissey	Schellpeper
Beyer				

Advanced to E & R for review with 28 ayes, 14 nays, 1 present and not voting, and 6 excused and not voting.

The Chair declared the call raised.

UNANIMOUS CONSENT - Print in Journal

Mr. Ashford asked unanimous consent to print the following amendment to LB 1 in the Journal. No objections. So ordered.

AM20SS

- 1 1. On page 164, after line 16, insert:
- 2 "It is the intent of the Legislature that the
- 3 FY1992-93 reduction to the General Fund appropriation
- 4 for the University of Nebraska be applied to the amount
- 5 of General Funds allocated for research in FY1992-93 as
- 6 reflected in the FY1993-95 budget request document."

RESOLUTION

LEGISLATIVE RESOLUTION 3. Introduced by Government, Military and Veterans Affairs Committee: Conway, 17, Chairperson; Bohlke, 33; Coordsen, 32; Lindsay, 9; Robak, 22; Schimek, 27; Schrock, 39; Withem, 14.

WHEREAS, during the Ninety-second Legislature, Third Special Session, 1992, LB 6 was introduced to reduce the membership of the Public Service Commission from five to three and LR 1CA was introduced to eliminate the commission; and

WHEREAS, deregulation of the telecommunications industry, increased federal regulation of railroads, and the proliferation of long distance telephone companies within the state, as well as other significant changes in the commission's responsibilities, have had a profound effect on commission workload; and

WHEREAS, Laws 1992, LB 988, passed during the last regular session of the Legislature, provided a new procedure for assessing the efficiency of the operations of a state agency; and

WHEREAS, the Legislature needs to identify those budget reductions which can be made without adverse effects on services provided by state government.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

1. That the Legislative Program Evaluation Committee is encouraged to conduct a program evaluation of the Public Service Commission to determine whether the membership should be reduced and whether commission staff should be reduced. The committee is

also encouraged to examine the efficiency of the commission's operations and to make recommendations regarding the commission's effectiveness.

2. That a copy of this resolution be presented to each member of the committee.

Laid over.

STANDING COMMITTEE REPORTS

Education

LEGISLATIVE BILL 3. Placed on General File.

LEGISLATIVE BILL 15. Placed on General File.

LEGISLATIVE BILL 19. Placed on General File.

LEGISLATIVE BILL 29. Placed on General File as amended.

Standing Committee amendment to LB 29:

AM33SS

- 1 1. Strike original sections 1 to 3 and insert
- 2 the following new section:
- 3 "Section 1. That section 85-121.05, Revised
- 4 Statutes Supplement, 1992, be amended to read as
- 5 follows:
- 6 85-121.05. If the Coordinating Commission for
- 7 Postsecondary Education determines that it is more
- 8 appropriate for the Nebraska College of Technical
- 9 Agriculture at Curtis to be under the control and
- 10 management of the board of governors of a community
- 11 college, the commission may incorporate such change to
- 12 the role and mission of the University of Nebraska and
- 13 the community colleges in its role and mission portion
- 14 of the comprehensive statewide plan, program approval,
- 15 and budget recommendations to the Legislature and the
- 16 Governor prescribed in the Coordinating Commission for
- 17 Postsecondary Education Act. If the commission makes
- 18 such change to the role and mission, it shall make the
- 19 change before July 1, ~~1995~~ 1993, and the change shall
- 20 not be effective until such date."
- 21 2. On page 9, strike beginning with
- 1 "sections" in line 16 through "to" in line 18 and insert
- 2 "section"; and in line 19 strike "are" and insert "is".
- 3 3. Renumber the remaining section
- 4 accordingly.

LEGISLATIVE BILL 22. Indefinitely postponed.

LEGISLATIVE BILL 23. Indefinitely postponed.

LEGISLATIVE BILL 24. Indefinitely postponed.

(Signed) Ron Withem, Chairperson

Judiciary

LEGISLATIVE BILL 13. Placed on General File.

(Signed) Jerry Chizek, Chairperson

GENERAL FILE

LEGISLATIVE BILL 9. Title read. Considered.

Standing Committee amendment, AM17SS, found in the Journal on page 71, was adopted with 30 ayes, 0 nays, 13 present and not voting, and 6 excused and not voting.

Advanced to E & R for review with 26 ayes, 2 nays, 17 present and not voting, and 4 excused and not voting.

RECESS

At 11:43 a.m., on a motion by Speaker Baack, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., President Moul presiding.

ROLL CALL

The roll was called and all members were present except Mrs. Labeledz who was excused; and Messrs. Abboud, Ashford, Bernard-Stevens, Beutler, Haberman, Horgan, L. Johnson, Rogers, Schellpeper, Schmit, Schrock, Wickersham, Mrs. Bohlke, and Ms. Schimek who were excused until they arrive.

REFERENCE COMMITTEE REPORT

The Legislative Council Executive Board submits the attached report on the referral of Governor appointments.

Agriculture

Climate Assessment Response Committee

Rod Armstrong

Jack Daniel

Elbert Dickey

Gen. Stanley Heng

Michael Jess

Dick Mercer

Ron Saylor

Larry Sitzman

Perry Wigley

Dayle Williamson

(Signed) Jerome Warner, Chairperson
Legislative Council
Executive Board

GENERAL FILE**LEGISLATIVE BILL 10.** Title read. Considered.

Standing Committee amendment, AM14SS, found in the Journal on page 63, was considered.

Mr. Chambers offered the following amendment to the Standing Committee amendment:

FA1S3

In line 5, strike beginning with "Such" through "year" in line 7

Mr. Kristensen asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Warner asked unanimous consent to be excused. No objections. So ordered.

Mr. Haberman moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The Chambers amendment lost with 5 ayes, 19 nays, 21 present and not voting, and 4 excused and not voting.

Mr. Conway moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Mr. Withem requested a roll call vote on the Standing Committee amendment.

Voting in the affirmative, 25:

Abboud	Conway	Haberman	Morrissey	Schimek
Beyer	Coordsen	Hall	Nelson	Schrock
Bohlke	Cudaback	Johnson, R.	Robak	Wesely
Byars	Dierks	Landis	Rogers	Wickersham
Chizek	Elmer	Lindsay	Schellpeper	Will

Voting in the negative, 19:

Ashford	Beutler	Hillman	Lynch	Robinson
Baack	Crosby	Horgan	Moore	Schmit
Bernard-	Hartnett	Johnson, L.	Pirsch	Wehrbein
Stevens	Hefner	Kristensen	Rasmussen	Withem

Present and not voting, 3:

Chambers	Lamb	Peterson
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Excused and not voting, 2:

Labedz	Warner
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The Standing Committee amendment was adopted with 25 ayes, 19 nays, 3 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Mr. Chambers moved to reconsider the vote on adoption of Committee Amendments.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

The Chambers motion to reconsider prevailed with 25 ayes, 6 nays, 14 present and not voting, and 4 excused and not voting.

The Standing Committee amendment, AM14SS, found in the Journal on page 63, and considered in this day's Journal, was reconsidered.

Pending.

STANDING COMMITTEE REPORT
Transportation

The Committee on Transportation desires to report favorably upon the appointment listed below. The Committee suggests the appointment be confirmed by the Legislature and suggests a record vote.

Marlin O. Armbruster - Motor Vehicle Industry Licensing Board

VOTE: Aye: Senators Beyer, Byars, Kristensen, Peterson, Pirsch, and Robak. Nay: none. Absent: Senators Horgan and Wickersham.

(Signed) Doug Kristensen, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Warner asked unanimous consent to print the following amendment to LB 14 in the Journal. No objections. So ordered.

AM31SS

- 1 1. On page 13, line 18, after "division"
- 2 insert "other than the Division of Employee Relations";
- 3 and in line 23 after "divisions" insert "other than the
- 4 Chief Negotiator".
- 5 2. On page 50, lines 18 through 20, strike
- 6 the new matter and reinstate the stricken matter.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 12. Placed on Select File.

LEGISLATIVE BILL 1. Placed on Select File as amended.
E & R amendment to LB 1:

AM5309

- 1 1. In the Standing Committee amendments,
- 2 AM18SS, on page 5, line 9, strike "178, after line 11"
- 3 and insert "179, after line 10".
- 4 2. Strike original section 19 and insert the
- 5 following new section:
- 6 "Sec. 73. That Laws 1992, LB 1063A, section
- 7 2, be amended to read as follows:
- 8 Sec. 2. AGENCY NO. 12 -- STATE TREASURER
- 9 (1) Program No. 118 - Municipal Infrastructure
- 10 Redevelopment

	FY1991-92	FY1992-93
11 CASH FUND	4,600,000	4,600,000
12 PROGRAM TOTAL	4,600,000	4,600,000

14 No expenditures for personal services shall be
15 made from funds appropriated to this program.

16 There is included in the appropriation to this
17 program for FY1991-92 \$4,600,000 Cash Funds for state
18 aid, which shall only be used for such purpose. There
19 is included in the appropriation to this program for
20 FY1992-93 \$4,600,000 Cash Funds for state aid, which
21 shall only be used for such purpose.

1 (2) Program No. 119 - Aid to Natural Resources
2 Districts

	FY1991-92	FY1992-93
3 GENERAL FUND	700,000	700,000
4 PROGRAM TOTAL	700,000	700,000
5 SALARY LIMIT	-0-	-0-

7 There is included in the appropriation to this
8 program for FY1991-92 \$700,000 General Funds for state
9 aid, which shall only be used for such purpose. There
10 is included in the appropriation to this program for
11 FY1992-93 \$700,000 General Funds for state aid, which
12 shall only be used for such purpose.

13 (3) Program No. 120 - Aid to Municipalities

	FY1991-92	FY1992-93
14 GENERAL FUND	17,900,000	17,900,000
15 PROGRAM TOTAL	17,900,000	17,900,000
16 SALARY LIMIT	-0-	-0-

18 There is included in the appropriation to this
19 program for FY1991-92 \$17,900,000 General Funds for
20 state aid, which shall only be used for such purpose.
21 There is included in the appropriation to this program
22 for FY1992-93 \$17,900,000 General Funds for state aid,
23 which shall only be used for such purpose.

24 (4) Program No. 149 - Aid to Counties

	FY1991-92	FY1992-93
1 GENERAL FUND	17,000,000	13,500,000
2 PROGRAM TOTAL	17,000,000	13,500,000
3 SALARY LIMIT	-0-	-0-

5 There is included in the appropriation to this
6 program for FY1991-92 \$17,000,000 General Funds for
7 state aid, which shall only be used for such purpose.
8 There is included in the appropriation to this program
9 for FY1992-93 \$13,500,000 General Funds for state aid,
10 which shall only be used for such purpose.

11 It is the intent of the Legislature that for
 12 FY1993-94 the total appropriation to the State
 13 Treasurer, for Program 149, shall equal the state aid
 14 amount specified in section 77-27,136.

15 (5) Program No. 503 - Treasury Management

16		FY1991-92	FY1992-93
17	GENERAL FUND	275,360	274,444
18	PROGRAM TOTAL	275,360	274,444
19	<u>GENERAL FUND</u>	<u>275,360</u>	<u>270,023</u>
20	<u>PROGRAM TOTAL</u>	<u>275,360</u>	<u>270,023</u>
21	SALARY LIMIT	141,149	141,149

22 (6) Program No. 512 - Unclaimed Property

23		FY1991-92	FY1992-93
24	CASH FUND	205,343	201,899
1	PROGRAM TOTAL	205,343	201,899
2	SALARY LIMIT	103,499	103,558

3 FOR INFORMATIONAL PURPOSES ONLY: Total
 4 Appropriations to Agency No. 12 and Fund Source

5		FY1991-92	FY1992-93
6	GENERAL FUND	35,875,360	32,374,444
7	<u>GENERAL FUND</u>	<u>35,875,360</u>	<u>32,370,023</u>
8	CASH FUND	4,805,343	4,801,899
9	<u>AGENCY TOTAL</u>	<u>40,680,703</u>	<u>37,176,343</u>
10	<u>AGENCY TOTAL</u>	<u>40,680,703</u>	<u>37,171,922</u>

11 2. On page 1, strike beginning with "Laws" in
 12 line 1 through the semicolon in line 2; strike beginning
 13 with "Laws" in line 6 through the semicolon in line 7;
 14 in line 8 strike "; and" and insert "3;"; and in line
 15 10 after the semicolon insert "and Laws 1992, LB 1063A,
 16 section 2;".

17 3. On page 213, strike beginning with "Laws"
 18 in line 23 through the semicolon in line 24.

19 4. On page 214, line 2, strike beginning with
 20 "Laws" through the second semicolon; in line 4 strike
 21 "and"; and in line 5 after "82" insert "; and Laws 1992,
 22 LB 1063A, section 2".

LEGISLATIVE BILL 2. Placed on Select File as amended.

E & R amendment to LB 2:

AM5307

- 1 1. On page 6, line 4, after "9-415" insert ",
- 2 Uniform Commercial Code."

(Signed) Eric Will, Chairperson

STANDING COMMITTEE REPORT
Business and Labor

LEGISLATIVE BILL 30. Indefinitely postponed.

(Signed) George Coordsen, Chairperson

Banking, Commerce and Insurance

LEGISLATIVE BILL 26. Placed on General File as amended.
Standing Committee amendment to LB 26:
AM34SS

- 1 1. Insert the following new section:
- 2 "Sec. 22. There is hereby appropriated (1)
- 3 \$24,664 from the Unclaimed Property Cash Fund for
- 4 FY1992-93 and (2) \$61,819 from the Unclaimed Property
- 5 Cash Fund for FY1993-94 to the State Treasurer, for
- 6 Program 512, to aid in carrying out the provisions of
- 7 this legislative bill.
- 8 Total expenditures for permanent and temporary
- 9 salaries and per diems from funds appropriated in this
- 10 section shall not exceed \$7,674 for FY1992-93 or \$13,429
- 11 for FY1993-94."
- 12 2. On page 4, line 16, after the second comma
- 13 insert "industrial loan and investment company."
- 14 3. On page 7, line 13, after "deposit" insert
- 15 "that is not automatically renewable, including a
- 16 certificate of indebtedness that is not automatically
- 17 renewable."
- 18 4. On page 9, line 15, after "renewable"
- 19 insert ", including a certificate of indebtedness that
- 20 is automatically renewable."
- 21 5. On page 27, line 19, after "may" insert
- 1 "pay or"; and in line 22, after "Property" insert "paid
- 2 or".
- 3 6. Renumber the remaining sections
- 4 accordingly.

(Signed) David Landis, Chairperson

GENERAL FILE

LEGISLATIVE BILL 10. The pending Standing Committee amendment, AM14SS, lost with 1 aye, 12 nays, 32 present and not voting, and 4 excused and not voting.

Mr. Conway asked unanimous consent to pass over LB 10. No objections. So ordered.

Mr. Beyer asked unanimous consent to be excused until he returns. No objections. So ordered.

SELECT COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 11. Placed on Select File.

LEGISLATIVE BILL 9. Placed on Select File as amended.

E & R amendment to LB 9:

AM5308

- 1 1. On page 1, line 6, after the semicolon
- 2 insert "to rename a fund;"; in line 9 strike "and"; and
- 3 in line 10 after "sections" insert "; and to declare an
- 4 emergency".
- 5 2. On page 6, line 17, strike "or" and insert
- 6 "of"; and in line 19 after "through" insert "fiscal
- 7 year".

(Signed) Eric Will, Chairperson

GENERAL FILE

LEGISLATIVE BILL 14. Title read. Considered.

Mr. Chambers offered the following amendment:

FA2S3

All provisions relative to moving the Department of Personnel into the Department of Administrative Services shall take effect on June 1, 1993

Mr. Chambers withdrew his pending amendment.

Mr. Chambers offered the following amendment:

FA3S3

Strike all references to the Dept. of Personnel from LB 14.

SPEAKER BAACK PRESIDING

Messrs. Elmer and Dierks asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Chambers moved for a call of the house. The motion prevailed with 10 ayes, 0 nays, and 39 not voting.

Mr. Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 3:

Crosby	Morrissey	Schmit
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Voting in the negative, 34:

Abboud	Conway	Johnson, L.	Nelson	Schimek
Ashford	Cudaback	Johnson, R.	Pirsch	Schrock
Baack	Haberman	Kristensen	Rasmussen	Wehrbein
Beutler	Hall	Lamb	Robak	Wesely
Bohlke	Hefner	Lindsay	Robinson	Will
Byars	Hillman	Lynch	Rogers	Withem
Chizek	Horgan	Moore	Schellpeper	

Present and not voting, 5:

Bernard- Stevens	Chambers	Coordsen	Hartnett	Wickersham
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Excused and not voting, 7:

Beyer	Elmer	Landis	Peterson	Warner
Dierks	Labeledz			

The Chambers amendment lost with 3 ayes, 34 nays, 5 present and not voting, and 7 excused and not voting.

The Chair declared the call raised.

Mr. Chambers moved to reconsider the vote on the Chambers amendment, FA3S3, relative to the Personnel Dept.

MR. CONWAY PRESIDING

Messrs. Abboud and Kristensen asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Withem asked unanimous consent to be excused. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Chambers moved for a call of the house. The motion prevailed with 8 ayes, 0 nays, and 41 not voting.

Mr. Chambers requested a roll call vote on his motion to reconsider the vote on his amendment, FA3S3.

Voting in the affirmative, 3:

Chambers Crosby Schmit

Voting in the negative, 36:

Abboud	Chizek	Hillman	Moore	Schellpeper
Ashford	Conway	Horgan	Nelson	Schimek
Baack	Coordsen	Johnson, L.	Pirsch	Schrock
Bernard-	Cudaback	Johnson, R.	Rasmussen	Wehrbein
Stevens	Haberman	Lamb	Robak	Wesely
Beutler	Hall	Lindsay	Robinson	Wickersham
Bohlke	Hartnett	Lynch	Rogers	Will
Byars	Hefner			

Present and not voting, 2:

Morrissey Peterson

Excused and not voting, 8:

Beyer	Elmer	Labeledz	Warner	Withem
Dierks	Kristensen	Landis		

The Chambers motion to reconsider lost with 3 ayes, 36 nays, 2 present and not voting, and 8 excused and not voting.

The Chair declared the call raised.

Messrs. Hartnett and Abboud asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Chizek moved to indefinitely postpone LB 14.

Laid over.

LEGISLATIVE BILL 10. Mrs. Bohlke offered the following amendment:

AM39SS

- 1 1. On page 2, line 5, strike beginning with
- 2 the first comma through the second comma and show as
- 3 stricken; in line 7 strike "seventy-five", show as
- 4 stricken, and insert "fifty"; in line 9 strike the new
- 5 matter; and in lines 16 through 25 strike the new matter
- 6 and reinstate the stricken matter.
- 7 2. On page 3, lines 7 through 9, reinstate
- 8 the stricken matter; and in lines 12 and 17 strike the
- 9 new matter and reinstate the stricken matter.

Mmes. Nelson and Robak asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Schrock moved to bracket LB 10 until January 1, 1993.

Mr. R. Johnson asked unanimous consent to be excused until he returns. No objections. So ordered.

Ms. Schimek moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 2 nays, and 22 not voting.

The Schrock motion to bracket lost with 3 ayes, 18 nays, 15 present and not voting, and 13 excused and not voting.

Mrs. Hillman asked unanimous consent to be excused until she returns. No objections. So ordered.

Mr. Moore moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 2 nays, and 22 not voting.

The Bohlke amendment was adopted with 28 ayes, 4 nays, 6 present and not voting, and 11 excused and not voting.

Advanced to E & R for review with 29 ayes, 6 nays, 3 present and not voting, and 11 excused and not voting.

UNANIMOUS CONSENT - Print in Journal

Mr. Chambers asked unanimous consent to print the following amendment to LB 14 in the Journal. No objections. So ordered.

FA4S3

Require the merger of the Dept. of Correctional Services into the Department of Public Institutions and convert the Dept. of Correctional Services into the correctional division of the Dept. of Public Institutions. Harmonize all other applicable statutes.

Mr. Chambers asked unanimous consent to print the following amendment to LB 14 in the Journal. No objections. So ordered.

FA5S3

Strike E Clause

Mr. Chambers asked unanimous consent to print the following motion to LB 14 in the Journal. No objections. So ordered.

I move to return LB 14 to Government, Military and Veterans Affairs Committee.

Mr. Chambers asked unanimous consent to print the following amendment to LB 14 in the Journal. No objections. So ordered.

FA6S3

P. 9, lines 5-8, strike new language.

Mr. Schmit asked unanimous consent to print the following amendment to LB 26 in the Journal. No objections. So ordered.

AM41SS

- 1 1. Strike original section 17.
- 2 2. On page 31, line 4, strike "to 69-1317"
- 3 and insert ", 69-1316".
- 4 3. Renumber the remaining sections
- 5 accordingly.

STANDING COMMITTEE REPORT Health and Human Services

LEGISLATIVE BILL 5. Indefinitely postponed.

(Signed) Don Wesely, Chairperson

GENERAL FILE

LEGISLATIVE BILL 20. Title read. Considered.

Standing Committee amendment, AM15SS, found in the Journal on page 67, was considered.

Messrs. Lindsay and Wesely offered the following amendment to the Standing Committee amendment:

AM48SS

(Amendments to Standing Committee amendments, AM15SS)

- 1 1. On page 1, strike beginning with "October"
- 2 2 in line 2 through the underscored period in line 8 and
- 3 3 insert "December 1, 1992".

Messrs. Hefner, L. Johnson, Lamb, Peterson, Chizek, and Mrs. Hillman asked unanimous consent to be excused until they return. No objections. So ordered.

MR. CONWAY PRESIDING

The Lindsay-Wesely amendment was adopted with 20 ayes, 0 nays, 12 present and not voting, and 17 excused and not voting.

Mr. Chambers offered the following amendment to the Standing Committee amendment:

AM21SS

(Amendments to Standing Committee amendments, AM15SS)

- 1 1. On page 1, strike beginning with "4" in
- 2 line 1 through the quotation marks in line 8 and insert
- 3 "3, line 19, after 'children' insert 'during the last
- 4 three months of the pregnancy'".
- 5 2. Insert the following new amendments:
- 6 "1. Insert the following new section:
- 7 'Sec. 2. That section 68-1020, Reissue
- 8 Revised Statutes of Nebraska, 1943, be amended to read
- 9 as follows:
- 10 68-1020. (1) Medical assistance shall be paid
- 11 on behalf of dependent children, aged persons, blind
- 12 individuals, and disabled individuals, as defined in
- 13 sections 43-504 and 68-1002 to 68-1005, and all
- 14 individuals less than twenty-one years of age who are
- 15 eligible under section 1905(a) of the Social Security
- 16 Act, as amended.
- 17 (2) The Director of Social Services shall
- 18 provide, through rule and regulation, such medical

- 19 assistance benefits to qualified individuals:
- 20 (a) Who are presumptively eligible as allowed
- 1 under ~~section 9407, Public Law 99-509, 100th Congress,~~
- 2 ~~1986 42 U.S.C. 1396a, as amended;~~ or
- 3 (b) Who have income at or below one hundred
- 4 ~~eighty-five~~ percent of the Office of Management and
- 5 Budget's income poverty guidelines, without regard to
- 6 resources, including children up to such age as allowed
- 7 under ~~section 9401, Public Law 99-509, 100th Congress,~~
- 8 ~~1986 42 U.S.C. 1396a, as amended.'~~
- 9 3. On page 4, strike lines 18 through 22; in
- 10 line 23 strike 'section 43-504' and insert 'sections
- 11 43-504 and 68-1020'; and in line 24 strike 'is' and
- 12 insert 'are'.
- 13 4. Renumber the remaining sections
- 14 accordingly."
- 15 3. Renumber original amendment 1 as amendment
- 16 2.

Messrs. Haberman, Wesely, and Wehrbein asked unanimous consent to be excused. No objections. So ordered.

SPEAKER BAACK PRESIDING

Messrs. Conway and Horgan asked unanimous consent to be excused. No objections. So ordered.

Mr. Chambers moved for a call of the house. The motion prevailed with 12 ayes, 0 nays, and 37 not voting.

Mr. Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 6:

Crosby	Lynch	Rasmussen	Rogers	Schmit
Landis				

Voting in the negative, 18:

Ashford	Beutler	Hall	Lamb	Pirsch
Baack	Byars	Hefner	Lindsay	Schrock
Bernard-	Coordsen	Johnson, L.	Moore	Wickersham
Stevens	Cudaback	Kristensen	Peterson	

Present and not voting, 9:

Bohlke	Dierks	Nelson	Schellpeper	Will
Chambers	Morrissey	Robinson	Schimek	

Excused and not voting, 16:

Abboud	Elmer	Hillman	Labadz	Wehrbein
Beyer	Haberman	Horgan	Robak	Wesely
Chizek	Hartnett	Johnson, R.	Warner	Withem
Conway				

The Chambers amendment lost with 6 ayes, 18 nays, 9 present and not voting, and 16 excused and not voting.

Pending.

UNANIMOUS CONSENT - Print in Journal

Ms. Schimek asked unanimous consent to print the following amendment to LB 10 in the Journal. No objections. So ordered.

AM50SS

- 1 1. On page 2, after line 18 insert "Any
- 2 member receiving a credit of seventy-five percent of
- 3 resident tuition charges immediately prior to July 1,
- 4 1993, shall continue to receive the credit at such rate
- 5 for a period of ten years from the date of the member's
- 6 initial membership so long as the member maintains
- 7 satisfactory performance with the guard and pursues his
- 8 or her course of study in such institution in a manner
- 9 which satisfies the normal requirements of the
- 10 institution.".

Mr. Chambers asked unanimous consent to print the following amendment to LB 20 in the Journal. No objections. So ordered.

FA7S3

Page 4, lines 19-20, strike:

"commencing on the effective date of this act", and insert "on".

SELECT COMMITTEE REPORT Enrollment and Review

LEGISLATIVE BILL 10. Placed on Select File as amended.
E & R amendment to LB 10:

AM5310

1 1. Strike the original sections and all
2 amendments thereto and insert the following new
3 sections:

4 "Section 1. That section 85-505, Revised
5 Statutes Supplement, 1992, be amended to read as
6 follows:

7 85-505. Any member of the Nebraska National
8 Guard who ~~shall enroll, on or after July 1, 1986,~~
9 enrolls in any state-supported university, college, or
10 community college shall be entitled to a credit of
11 ~~seventy-five~~ fifty percent of the resident tuition
12 charges of such school. Such entitlement shall be for a
13 period of ten years from the date of the member's
14 initial membership so long as the member ~~of the Nebraska~~
15 ~~National Guard~~ maintains satisfactory performance with
16 the guard and pursues his or her course of study in such
17 institution in a manner which satisfies the normal
18 requirements of the institution, except that the number
19 of individuals granted such tuition credit shall not
20 exceed the number specified in section 85-505.01 during
21 any fiscal year. When determining to whom such tuition
1 credit shall be awarded, priority shall be given to
2 those individuals who have previously received tuition
3 credits while a National Guard member, and the Nebraska
4 National Guard shall apply those program qualifications
5 and limitations consistent with efficient and effective
6 program management as determined by the Adjutant
7 General.

8 Sec. 2. This act shall become operative on
9 July 1, 1993.

10 Sec. 3. That original section 85-505, Revised
11 Statutes Supplement, 1992, is repealed."

12 2. On page 1, line 2, strike "sections 85-505
13 and 85-505.01" and insert "section 85-505"; and in line
14 6 strike "sections" and insert "section".

(Signed) Eric Will, Chairperson

VISITORS

Visitors to the Chamber were 19 seniors and teacher from Pleasanton.

MOTION - Adjournment

Mr. Landis moved to adjourn until 9:00 a.m., Tuesday, September 29, 1992. The motion prevailed with 19 ayes, 6 nays, 8 present and not voting, and 16 excused and not voting, and at 8:21 p.m., the Legislature adjourned until 9:00 a.m., Tuesday, September 29, 1992.

Patrick J. O'Donnell
Clerk of the Legislature

printed on recycled paper

SEVENTH DAY - SEPTEMBER 29, 1992

LEGISLATIVE JOURNAL

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LEGISLATIVE JOURNAL

**NINETY-SECOND LEGISLATURE
THIRD SPECIAL SESSION**

SEVENTH DAY

Legislative Chamber, Lincoln, Nebraska
Tuesday, September 29, 1992

Pursuant to adjournment, the Legislature met at 9:00 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Senator Elroy Hefner.

ROLL CALL

The roll was called and all members were present except Mrs. Labedz who was excused; and Messrs. Abboud, Ashford, Beutler, Beyer, Hall, Hartnett, R. Johnson, Landis, Lindsay, Lynch, Morrissey, Schmit, Wehrbein, and Mrs. Pirsch who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the sixth day was approved.

REPORT

Received report from the Nebraska Educational Telecommunications Commission concerning Nebraska Public Radio Network development.

MOTION - Approve Appointments

Mr. Withem moved the adoption of the report of the Education Committee for the following Governor appointment found in the Journal on page 77: Patrick G. Rogers - Educational Lands and Funds.

Voting in the affirmative, 25:

Baack	Conway	Elmer	Johnson, L.	Warner
Bohlke	Coordsen	Haberman	Kristensen	Wesely
Byars	Crosby	Hefner	Lamb	Wickersham
Chambers	Cudaback	Hillman	Peterson	Will
Chizek	Dierks	Horgan	Schimek	Withem

Voting in the negative, 0.

Present and not voting, 9:

Bernard-	Moore	Rasmussen	Robinson	Schellpeper
Stevens	Nelson	Robak	Rogers	Schrock

Excused and not voting, 15:

Abboud	Beyer	Johnson, R.	Lindsay	Pirsch
Ashford	Hall	Labeledz	Lynch	Schmit
Beutler	Hartnett	Landis	Morrissey	Wehrbein

The appointment was confirmed with 25 ayes, 0 nays, 9 present and not voting, and 15 excused and not voting.

Mr. Kristensen moved the adoption of the report of the Transportation Committee for the following Governor appointment found in the Journal on page 88: Marlin O. Armbruster - Motor Vehicle Industry Licensing Board.

Voting in the affirmative, 26:

Baack	Coordsen	Hefner	Lamb	Warner
Bohlke	Crosby	Hillman	Peterson	Wesely
Byars	Cudaback	Horgan	Rogers	Wickersham
Chambers	Elmer	Johnson, L.	Schellpeper	Will
Chizek	Haberman	Kristensen	Schimek	Withem
Conway				

Voting in the negative, 0.

Present and not voting, 8:

Bernard-	Dierks	Nelson	Robak	Schrock
Stevens	Moore	Rasmussen	Robinson	

Excused and not voting, 15:

Abboud	Beyer	Johnson, R.	Lindsay	Pirsch
Ashford	Hall	Labeledz	Lynch	Schmit
Beutler	Hartnett	Landis	Morrissey	Wehrbein

The appointment was confirmed with 26 ayes, 0 nays, 8 present and not voting, and 15 excused and not voting.

GENERAL FILE

LEGISLATIVE BILL 20. Mr. Chambers moved to reconsider the vote on the Chambers amendment, AM21SS, found in the Journal on page 97, to the Standing Committee amendment.

Messrs. Conway, Kristensen, and Withem asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Chambers requested a record vote on his motion to reconsider.

Voting in the affirmative, 4:

Chambers	Crosby	Schimek	Schmit
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Voting in the negative, 15:

Baack	Elmer	Hillman	Lindsay	Warner
Bohlke	Haberman	Johnson, L.	Moore	Wehrbein
Chizek	Hall	Lamb	Nelson	Will

Present and not voting, 17:

Bernard- Stevens	Coordsen	Horgan	Robinson	Schrock
Beutler	Cudaback	Peterson	Rogers	Wesely
Byars	Dierks	Rasmussen	Schellpeper	Wickersham
	Hefner	Robak		

Excused and not voting, 13:

Abboud	Conway	Kristensen	Lynch	Pirsch
Ashford	Hartnett	Labeledz	Morrissey	Withem
Beyer	Johnson, R.	Landis		

The Chambers motion to reconsider lost with 4 ayes, 15 nays, 17 present and not voting, and 13 excused and not voting.

Mrs. Crosby offered the following amendment to the Standing Committee amendment:

AM37SS

(Amendments to Standing Committee amendments, AM15ss)

- 1 1. Strike amendment 1 and insert the
- 2 following new amendment:
- 3 "1. On page 4, line 19, strike 'the effective
- 4 date of this act' and insert 'April 1, 1993'.".

Mr. Haberman asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Lindsay moved for a call of the house. The motion prevailed with 15 ayes, 0 nays, and 34 not voting.

Mr. Chambers requested a roll call vote on the Crosby amendment.

Voting in the affirmative, 6:

Crosby	Lynch	Rogers	Schimek	Schmit
Dierks				

Voting in the negative, 30:

Baack	Coordsen	Horgan	Morrissey	Warner
Bernard-	Cudaback	Johnson, L.	Nelson	Wehrbein
Stevens	Elmer	Lamb	Pirsch	Wesely
Beutler	Hall	Landis	Rasmussen	Wickersham
Bohlke	Hefner	Lindsay	Robak	Will
Byars	Hillman	Moore	Robinson	Withem
Chizek				

Present and not voting, 4:

Chambers	Peterson	Schellpeper	Schrock
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Excused and not voting, 9:

Abboud	Beyer	Haberman	Johnson, R.	Labeledz
Ashford	Conway	Hartnett	Kristensen	

The Crosby amendment lost with 6 ayes, 30 nays, 4 present and not voting, and 9 excused and not voting.

The Chair declared the call raised.

MR. WARNER PRESIDING

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Chambers moved to reconsider the vote on the Crosby amendment, AM37SS, to the Standing Committee amendment.

Mr. Chambers moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

The Chambers motion to reconsider lost with 7 ayes, 30 nays, 2 present and not voting, and 10 excused and not voting.

The Chair declared the call raised.

Mr. Morrissey asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Chambers offered the following amendment to the Standing Committee amendment:
FA8S3

Amend Committee Amendments (AM15SS)

On page 1, strike beginning with "4" in line 1 through the quotation marks in line 8 and insert "3, line 19, after 'children' insert 'during the last three months of the pregnancy'".

Mr. Robinson and Mrs. Robak asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

Messrs. Rogers, Schellpeper, and L. Johnson asked unanimous consent to be excused until they return. No objections. So ordered.

Pending.

UNANIMOUS CONSENT - Print in Journal

Mr. Schellpeper asked unanimous consent to print the following amendment to LB 11 in the Journal. No objections. So ordered.

AM44SS

1. On page 2, line 21, reinstate the stricken

- 2 "four million", after the reinstated "million" insert
3 "three hundred sixty-five thousand", and strike "three";
4 and in line 22 strike "million".
5 2. On page 6, line 17, reinstate the stricken
6 "four million", after the reinstated "million" insert
7 "three hundred sixty-five thousand", and strike "three";
8 in line 18 strike "million"; in line 20 reinstate the
9 stricken "four million" and after the reinstated
10 "million" insert "three hundred sixty-five thousand";
11 and in line 21 strike "three million".

Mr. Schellpeper asked unanimous consent to print the following amendment to LB 11 in the Journal. No objections. So ordered.

AM45SS

- 1 1. On page 2, line 21, reinstate the stricken
2 "four million", after the reinstated "million" insert
3 "two hundred seventy-five thousand", and strike "three";
4 and in line 22 strike "million".
5 2. On page 6, line 17, reinstate the stricken
6 "four million", after the reinstated "million" insert
7 "two hundred seventy-five thousand", and strike "three";
8 in line 18 strike "million"; in line 20 reinstate the
9 stricken "four million" and after the reinstated
10 "million" insert "two hundred seventy-five thousand";
11 and in line 21 strike "three million".

RECESS

At 12:00 noon, on a motion by Mrs. Hillman, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Mrs. Labedz who was excused; and Messrs. Beyer, Elmer, Haberman, Hall, R. Johnson, Morrissey, Peterson, Robinson, Mmes. Pirsch, and Rasmussen who were excused until they arrive.

UNANIMOUS CONSENT - Print in Journal

Mr. Conway asked unanimous consent to print the following amendment to LB 11 in the Journal. No objections. So ordered.

AM53SS

- 1 1. On page 2, line 19, after "until" insert
- 2 "July 1, 1993, and commencing July 1, 1994, and
- 3 continuing until"; in line 21 strike the new matter and
- 4 reinstate the stricken matter; in line 22 strike
- 5 "million" and strike "of proceeds of such tax" and show
- 6 as stricken; and in line 23 after the period insert
- 7 "Commencing July 1, 1993, and continuing until July 1,
- 8 1994, the State Treasurer shall place the equivalent of
- 9 sixteen cents of such tax less three million dollars in
- 10 the General Fund."
- 11 2. On page 6, line 15, after "until" insert
- 12 "July 1, 1993, and commencing July 1, 1994, and
- 13 continuing until"; in line 17 strike the new matter and
- 14 reinstate the stricken matter; in line 18 strike
- 15 "million"; in line 19 after the period insert "Beginning
- 16 July 1, 1993, and continuing until July 1, 1994, the
- 17 State Treasurer shall place in the Municipal
- 18 Infrastructure Redevelopment Fund the sum of three
- 19 million dollars to carry out the act."; in lines 20 and
- 20 21 strike the new matter and reinstate the stricken
- 21 matter; and in line 22 after the second "year" insert
- 1 "1992-93 and each year for fiscal year 1994-95 through
- 2 fiscal year" and after the period insert "The
- 3 Legislature shall appropriate the sum of three million
- 4 dollars for fiscal year 1993-94."

ANNOUNCEMENT

The Chair announced today is Senator Hartnett's birthday.

GENERAL FILE

LEGISLATIVE BILL 20. The pending Chambers amendment, FA8S3, found in this day's Journal, to the Standing Committee amendment, was renewed.

Messrs. Lynch, Withem, Dierks, Abboud, and Kristensen asked unanimous consent to be excused until they return. No objections. So ordered.

MR. CONWAY PRESIDING

Ms. Schimek moved the previous question. The question is, "Shall the debate now close?"

Ms. Schimek moved for a call of the house. The motion prevailed with 14 ayes, 0 nays, and 35 not voting.

Ms. Schimek requested a roll call vote on the motion to cease debate.

Voting in the affirmative, 31:

Abboud	Conway	Horgan	Peterson	Schrock
Ashford	Coordsen	Johnson, L.	Pirsch	Warner
Beutler	Cudaback	Lamb	Robak	Wehrbein
Beyer	Hartnett	Landis	Robinson	Wesely
Bohlke	Hefner	Lindsay	Schellpeper	Wickersham
Byars	Hillman	Nelson	Schimek	Will
Chizek				

Voting in the negative, 5:

Bernard-Stevens	Chambers	Crosby	Moore	Schmit
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Present and not voting, 2:

Baack	Rogers
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Excused and not voting, 11:

Dierks	Hall	Kristensen	Lynch	Rasmussen
Elmer	Johnson, R.	Labeledz	Morrissey	Withem
Haberman				

The motion to cease debate prevailed with 31 ayes, 5 nays, 2 present and not voting, and 11 excused and not voting.

The Chair declared the call raised.

Mr. Chambers moved for a call of the house. The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Mr. Chambers requested a roll call vote on his amendment.

Voting in the affirmative, 12:

Ashford	Bernard-	Crosby	Rogers	Warner
Baack	Stevens	Horgan	Schimek	Will
	Byars	Landis	Schmit	

Voting in the negative, 20:

Abboud	Conway	Hillman	Moore	Robinson
Beyer	Coordsen	Johnson, L.	Nelson	Wehrbein
Bohlke	Cudaback	Lamb	Pirsch	Wesely
Chizek	Hefner	Lindsay	Robak	Wickersham

Present and not voting, 6:

Beutler	Hartnett	Peterson	Schellpeper	Schrock
Chambers				

Excused and not voting, 11:

Dierks	Hall	Kristensen	Lynch	Rasmussen
Elmer	Johnson, R.	Labeledz	Morrissey	Withem
Haberman				

The Chambers amendment lost with 12 ayes, 20 nays, 6 present and not voting, and 11 excused and not voting.

The Chair declared the call raised.

Messrs. Warner and Abboud asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Chambers moved to reconsider the vote on the Chambers amendment, FA8S3, to the Standing Committee amendment.

Mmes. Robak, Nelson, Messrs. Schmit, Will, and Rogers asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Ashford moved for a call of the house. The motion prevailed with 24 ayes, 0 nays, and 25 not voting.

Mr. Ashford requested a roll call vote on the Chambers motion to reconsider.

Voting in the affirmative, 16:

Ashford	Beyer	Coordsen	Hall	Rasmussen
Baack	Byars	Crosby	Horgan	Schimek
Bernard-	Chambers	Cudaback	Landis	Wesely
Stevens	Conway			

Voting in the negative, 13:

Bohlke	Hefner	Lamb	Pirsch	Wehrbein
Chizek	Hillman	Lindsay	Schrock	Wickersham
Elmer	Johnson, L.	Moore		

Present and not voting, 6:

Beutler	Hartnett	Peterson	Robinson	Schellpeper
Haberman				

Excused and not voting, 14:

Abboud	Kristensen	Morrissey	Rogers	Will
Dierks	Labeledz	Nelson	Schmit	Withem
Johnson, R.	Lynch	Robak	Warner	

The Chambers motion to reconsider lost with 16 ayes, 13 nays, 6 present and not voting, and 14 excused and not voting.

The Chair declared the call raised.

The pending Standing Committee amendment, as amended, was adopted with 30 ayes, 1 nay, 5 present and not voting, and 13 excused and not voting.

MR. CONWAY PRESIDING

Mrs. Crosby offered the following amendment to LB 20:
AM32SS

1. On page 4, line 21, strike "upon birth"
2. and insert "at the end of the third month of gestation".

SPEAKER BAACK PRESIDING

Messrs. Robinson and Conway asked unanimous consent to be excused until they return. No objections. So ordered.

Mrs. Crosby moved for a call of the house. The motion prevailed with 10 ayes, 0 nays, and 39 not voting.

Mrs. Crosby requested a roll call vote on her amendment.

Voting in the affirmative, 1:

Crosby

Voting in the negative, 28:

Ashford	Byars	Hillman	Lindsay	Warner
Baack	Cudaback	Horgan	Moore	Wehrbein
Bernard-	Elmer	Johnson, L.	Peterson	Wesely
Stevens	Haberman	Kristensen	Pirsch	Wickersham
Beyer	Hall	Lamb	Rasmussen	Will
Bohlke	Hefner	Landis	Schrock	

Present and not voting, 11:

Beutler	Coordsen	Hartnett	Rogers	Schimek
Chambers	Dierks	Morrissey	Schellpeper	Withem
Chizek				

Excused and not voting, 9:

Abboud	Johnson, R.	Lynch	Robak	Schmit
Conway	Labeledz	Nelson	Robinson	

The Crosby amendment lost with 1 aye, 28 nays, 11 present and not voting, and 9 excused and not voting.

Pending.

The Chair declared the call raised.

RESOLUTION

LEGISLATIVE RESOLUTION 4. Introduced by Lamb, 43; Crosby, 29.

WHEREAS, John Rochford had served as head of the State Budget Division with the title of State Budget Administrator within the Department of Administrative Services until his title was changed to

senior budget analyst a few weeks ago, a change resulting in mostly undefined, if not spurious, duties; and

WHEREAS, Mr. Rochford has been a dedicated and competent employee of the state government for over twenty years, specializing in fiscal and budget matters; and

WHEREAS, this lengthy tenure has included service as an economist for the Nebraska Natural Resources Commission, as an analyst in the office of the Legislative Fiscal Analyst, as a special fiscal assistant for a former Governor, as a senior executive management analyst in the State Budget Office, as Deputy State Treasurer, as Director of Administrative Services, as well as his final position as State Budget Administrator until his title was changed to senior budget analyst as a result of a reorganization of the Governor's staff; and

WHEREAS, Mr. Rochford has served under both Republican and Democratic state administrations, under appointments from each, and apparently with ongoing competence, loyalty, credibility, and discretion; and

WHEREAS, Mr. Rochford "resigned" recently under the distinct impression his services were no longer appreciated.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

1. That Mr. Rochford's service in the various capacities mentioned in this resolution has been rendered in the best traditions of the competent civil servant, without whom the wheels of state government would turn even more slowly and perhaps ineptly.

2. That the State of Nebraska can ill afford to lose the expertise of such long-standing employees, especially under circumstances at best unfeeling and ill-conceived.

3. That Mr. Rochford is hereby commended for his years of valuable service to the State of Nebraska, which service is hereby acknowledged and appreciated.

Laid over.

UNANIMOUS CONSENT - Print in Journal

Mr. Haberman asked unanimous consent to print the following amendment to LB 1 in the Journal. No objections. So ordered.

AM55SS

1. Strike every FY1992-93 General Fund
- 2 appropriation, as it exists at the time of this
- 3 amendment, except for Agency 25, Department of Public

4 Institutions, programs 365, 421, and 519, and Agency 64,
5 Nebraska State Patrol, and insert an amount which
6 reflects a two and one-half percent across-the-board
7 reduction to General Fund operating expenditures and
8 which generates a total FY1992-93 General Fund reduction
9 of \$13,951,923. The reduction shall be carried forward
10 in the following fiscal years in the same amount. The
11 bill drafter's office with assistance from the
12 Legislative Fiscal Analyst shall make the changes
13 mandated by this amendment as part of the regular
14 enrollment and review process.

Mr. Withem asked unanimous consent to print the following amendment to LB 3 in the Journal. No objections. So ordered.

AM59SS

1 1. Insert the following new section:
2 "Sec. 2. (1) For purposes of this section,
3 institution shall mean a public or private entity, not
4 owned or operated by the public school district, which
5 operates a residential facility and a special education
6 program and which has an approved special education rate
7 established by the State Department of Education.
8 Institution shall include a school program with an
9 approved special education rate operated by a
10 psychiatric hospital or by a group home or a
11 child-caring agency, as defined in section 71-1902,
12 licensed by the Department of Social Services.
13 (2) Responsibility for education and the
14 educational costs, including special education, for a
15 ward of the state or of any court shall be as follows:
16 (a) When the ward resides in a foster family
17 home licensed or approved by the Department of Social
18 Services or a foster home maintained or used by the
19 Department of Correctional Services pursuant to section
20 83-108.04, the ward shall be deemed to be a resident of
21 the school district in which the foster family home or
1 foster home is located and the school district where the
2 ward resides shall be responsible for the education and
3 the educational costs for the ward to the same extent as
4 for any other resident student of the district;
5 (b) When the ward resides in an institution
6 and is receiving a free and appropriate public education
7 pursuant to section 79-3320, the ward shall be deemed to
8 be a resident of the school district in which the

9 institution is located and the school district where the
10 ward resides shall be responsible for the education and
11 the educational costs for the ward to the same extent as
12 for any other resident student of the district; and
13 (c) When the ward resides in a group home or a
14 child-caring agency, as defined in section 79-1902,
15 licensed by the Department of Social Services and the
16 group home or child-caring agency does not own or
17 operate an approved school or special education program,
18 the cost of his or her education and the required
19 transportation costs associated with the child's
20 education shall be paid by the state, but not in
21 advance, to the receiving school district under rules
22 and regulations prescribed by the department."
23 2. Renumber the remaining sections
24 accordingly.

GENERAL FILE

LEGISLATIVE BILL 20. Mr. Chambers moved to reconsider the vote on the Crosby amendment, AM32SS.

Mr. Morrissey asked unanimous consent to be excused until he returns. No objections. So ordered.

MR. MOORE PRESIDING

The Chambers motion to reconsider lost with 2 ayes, 19 nays, 20 present and not voting, and 8 excused and not voting.

Mr. Chambers withdrew his pending amendment, FA7S3, found in the Journal on page 99.

Mr. Chambers offered the following amendment:
FA9S3

Pg 4, lines 19-20 strike:
"commencing on the effective date of this act through" and insert,
"on"

SPEAKER BAACK PRESIDING

Mr. Chambers withdrew his pending amendment.

Mr. Lindsay asked unanimous consent to pass over LB 20. No objections. So ordered.

LEGISLATIVE BILL 21. Title read. Considered.

MR. WARNER PRESIDING

Advanced to E & R for review with 27 ayes, 2 nays, 14 present and not voting, and 6 excused and not voting.

Mrs. Pirsch asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 4. Title read. Considered.

Standing Committee amendment, AM25SS, found in the Journal on page 81, was adopted with 25 ayes, 0 nays, 17 present and not voting, and 7 excused and not voting.

SPEAKER BAACK PRESIDING

Mr. Hall offered the following amendment:

FA10S3

Strike original language of LB 4 and insert the new language

"Strike the capital gain exclusion from sale of exchange of capital stock found in Nebr. Revised Statutes 77-2715.09, commonly known as the LB 775 program."

Mr. Moore requested a ruling of the Chair on whether the Hall amendment is germane to the bill.

The Chair ruled the Hall amendment is not germane to the bill.

Advanced to E & R for review with 26 ayes, 8 nays, 8 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 20. Mr. Chambers offered the following amendment:

AM66SS

- 1 1. On page 4, strike lines 18 through 22 and
- 2 all amendments thereto and insert
- 3 "(4) Notwithstanding subsection (2) of this
- 4 section, commencing December 1, 1992, through June 30,
- 5 1995, in awarding aid to dependent children payments,
- 6 the term dependent child shall include an unborn child,
- 7 but only during the last three months of pregnancy."

MR. WITHEM PRESIDING

Mr. Lamb offered the following amendment to the pending Chambers amendment:

FA11S3

Amend Chambers Amendment
Strike "through June 30, 1995"

SPEAKER BAACK PRESIDING

Messrs. Rogers, Wesely, and Mrs. Robak asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Lindsay moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

Mr. Lindsay requested a roll call vote on the Lamb amendment.

Voting in the affirmative, 19:

Beyer	Cudaback	Hefner	Lynch	Robinson
Bohlke	Dierks	Horgan	Moore	Schrock
Byars	Elmer	Johnson, L.	Nelson	Warner
Coordsen	Haberman	Lamb	Peterson	

Voting in the negative, 23:

Ashford	Chizek	Hillman	Morrissey	Wesely
Baack	Conway	Johnson, R.	Rasmussen	Wickersham
Bernard-	Crosby	Kristensen	Schellpeper	Will
Stevens	Hall	Landis	Schimek	Withem
Chambers	Hartnett	Lindsay	Wehrbein	

Absent and not voting, 1:

Beutler

Excused and not voting, 6:

Abboud	Pirsch	Robak	Rogers	Schmit
Labedz				

The Lamb amendment lost with 19 ayes, 23 nays, 1 absent and not voting, and 6 excused and not voting.

The Chair declared the call raised.

Mr. Wehrbein moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 29 ayes, 0 nays, and 20 not voting.

Messrs. Landis and Beutler asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Lamb requested a record vote on the pending Chambers amendment, AM66SS.

Voting in the affirmative, 33:

Ashford	Chizek	Hartnett	Moore	Warner
Baack	Conway	Hillman	Morrissey	Wehrbein
Bernard-	Crosby	Horgan	Nelson	Wesely
Stevens	Cudaback	Johnson, R.	Rasmussen	Wickersham
Bohlke	Dierks	Kristensen	Robinson	Will
Byars	Elmer	Lindsay	Schimek	Withem
Chambers	Hall	Lynch	Schrock	

Voting in the negative, 8:

Beyer	Haberman	Johnson, L.	Peterson	Schellpeper
Coordsen	Hefner	Lamb		

Present and not voting, 1:

Beutler

Excused and not voting, 7:

Abboud	Landis	Robak	Rogers	Schmit
Labedz	Pirsch			

The Chambers amendment was adopted with 33 ayes, 8 nays, 1 present and not voting, and 7 excused and not voting.

Advanced to E & R for review with 36 ayes, 1 nay, 4 present and not voting, and 8 excused and not voting.

SELECT COMMITTEE REPORTS

Enrollment and Review

LEGISLATIVE BILL 21. Placed on Select File.

LEGISLATIVE BILL 4. Placed on Select File as amended.

E & R amendment to LB 4:

AM5311

- 1 1. On page 1, line 5, after the semicolon
- 2 insert "to state intent;".

(Signed) Eric Will, Chairperson

UNANIMOUS CONSENT - Print in Journal

Mr. Lynch asked unanimous consent to print the following amendment to LB 11 in the Journal. No objections. So ordered.

AM57SS

- 1 1. Strike original section 1 and all
- 2 amendments thereto and insert the following new section:
- 3 "Section 1. That section 77-2602, Revised
- 4 Statutes Supplement, 1992, be amended to read as
- 5 follows:
- 6 77-2602. (1) Every person engaged in
- 7 distributing or selling cigarettes at wholesale in this
- 8 state shall pay to the Tax Commissioner of this state a
- 9 special privilege tax. This shall be in addition to all
- 10 other taxes. It shall be paid prior to or at the time
- 11 of the sale, gift, or delivery to the retail dealer in
- 12 the several amounts as follows: On each package of
- 13 cigarettes containing not more than twenty cigarettes,
- 14 twenty-seven cents per package; and on packages
- 15 containing more than twenty cigarettes, the same tax as
- 16 provided on packages containing not more than twenty
- 17 cigarettes for the first twenty cigarettes in each
- 18 package and a tax of one-twentieth of the tax on the
- 19 first twenty cigarettes on each cigarette in excess of
- 20 twenty cigarettes in each package. Commencing July 1,
- 21 1989 1993, and continuing until July 1, 2009, the State
- 1 Treasurer shall place the equivalent of sixteen cents of
- 2 such tax less ~~four million five hundred thousand~~ four
- 3 million two hundred seventy-five thousand dollars each
- 4 fiscal year of proceeds of such tax in the General Fund.
- 5 Commencing July 1, 2009, the State Treasurer shall place
- 6 the equivalent of sixteen cents of such tax in the
- 7 General Fund. For purposes of this section, the
- 8 equivalent of a specified number of cents of the tax

9 shall mean that portion of the proceeds of the tax equal
10 to the specified number divided by twenty-seven. The
11 State Treasurer shall distribute the remaining proceeds
12 of such tax in the following order:

13 (a) First, beginning July 1, ~~1980~~ 1993, the
14 State Treasurer shall place the equivalent of
15 ninety-five percent of one cent of such tax in the
16 Nebraska Outdoor Recreation Development Cash Fund;

17 (b) Second, beginning July 1, ~~1983~~ 1993, the
18 State Treasurer shall place the equivalent of
19 ninety-five percent of one cent of such tax in the
20 Department of Health Cash Fund to carry out sections
21 81-637 to 81-640;

22 (c) Third, the State Treasurer shall place in
23 the University Buildings Renovation and Land Acquisition
24 Fund the sum of ~~one million seven hundred sixty-five~~
1 ~~thousand one hundred fifty-three~~ one million six hundred
2 seventy-six thousand eight hundred ninety-five dollars
3 and in the State College Buildings Renovation and Land
4 Acquisition Fund the sum of ~~three hundred sixty-one~~
5 ~~thousand two hundred twenty-two~~ three hundred
6 forty-three thousand one hundred sixty-one dollars each
7 year for fiscal year ~~1984-85 through fiscal year~~
8 1993-94. Such amounts are hereby appropriated and the
9 unexpended balances existing in such funds at the end of
10 each fiscal year or biennium through June 30, 1994, are
11 hereby reappropriated. The money in such funds shall be
12 used for payment of the costs of building repair,
13 remodeling, and renovation projects and equipment and
14 land acquisition projects of the University of Nebraska
15 and the Nebraska state colleges authorized by sections
16 85-1,111, 85-1,112, 85-322, and 85-323;

17 (d) Fourth, beginning July 1, ~~1986~~ 1993, the
18 State Treasurer shall place the equivalent of
19 ninety-five percent of four cents of such tax, but in
20 any event not less than ~~four million four hundred~~
21 ~~fourteen thousand~~ four million one hundred ninety-three
22 thousand three hundred dollars, in the University
23 Facilities Construction Fund each fiscal year to carry
24 out section 85-1,113. The Legislature shall appropriate
1 the sum of ~~four million four hundred fourteen thousand~~
2 four million one hundred ninety-three thousand three
3 hundred dollars each year for fiscal year ~~1986-87~~
4 1993-94 either through fiscal year 1995-96 or until all
5 financial obligations incurred in the contracts entered

6 into by the Board of Regents pursuant to section
7 85-1,114 are discharged, whichever occurs first. The
8 State Treasurer shall transfer the unexpended balance
9 existing in the University Facilities Construction Fund
10 on June 15 of each year to the General Fund, except that
11 of the balance existing on June 15, 1991, the State
12 Treasurer shall transfer an amount not to exceed four
13 hundred seventy-five thousand dollars to the University
14 of Nebraska Eppley Science Hall Construction Fund to be
15 used as partial funding for the University of Nebraska
16 Eppley Science Hall construction project, with any
17 remaining balance being transferred to the General Fund;

18 (e) Fifth, beginning July 1, 1988 1993, the
19 State Treasurer shall place the equivalent of
20 ninety-five percent of one-half cent of such tax, but in
21 any event not less than six hundred ninety-five thousand
22 one hundred seventy-eight six hundred sixty thousand
23 four hundred nineteen dollars, in the University
24 Facility Improvement Fund and shall place the equivalent
1 of ninety-five percent of one and one-half cents of such
2 tax, but in any event not less than one million eight
3 hundred fifty-seven thousand two hundred thirteen one
4 million seven hundred sixty-four thousand three hundred
5 fifty-two dollars, in the State College Facilities
6 Improvement Fund for each fiscal year to carry out
7 sections 85-1,116, 85-1,117, 85-324, and 85-325. The
8 Legislature shall appropriate the sum of six hundred
9 ninety-five thousand one hundred seventy-eight six
10 hundred sixty thousand four hundred nineteen dollars
11 each year for fiscal year 1988-89 1993-94 through fiscal
12 year 1997-98 or until all financial obligations incurred
13 in the contracts entered into by the Board of Regents
14 pursuant to section 85-1,117 are discharged, whichever
15 occurs first. The Legislature shall appropriate the sum
16 of one million eight hundred fifty-seven thousand two
17 hundred thirteen one million seven hundred sixty-four
18 thousand three hundred fifty-two dollars each year for
19 fiscal year 1988-89 1993-94 through fiscal year 1997-98
20 or until all financial obligations incurred in the
21 contracts entered into by the Board of Trustees of the
22 Nebraska State Colleges pursuant to section 85-325 are
23 discharged, whichever occurs first. The State Treasurer
24 shall transfer the unexpended balance existing in the
1 University Facility Improvement Fund and the State
2 College Facilities Improvement Fund on June 15 of each

3 year to the General Fund;
4 (f) Sixth, the State Treasurer shall place the
5 difference between the equivalent of eleven cents of
6 such tax and the sum of the amounts distributed pursuant
7 to subdivisions (a) through (e) of this subsection in a
8 special fund to be known as the Nebraska Capital
9 Construction Fund, and disbursements from such fund
10 shall be as the Legislature shall from time to time
11 provide; and
12 (g) Seventh, beginning July 1, 1989, and
13 continuing until July 1, 2009, the State Treasurer shall
14 place in the Municipal Infrastructure Redevelopment Fund
15 the sum of ~~four million five hundred thousand~~ four
16 million two hundred seventy-five thousand dollars each
17 fiscal year to carry out the Municipal Infrastructure
18 Redevelopment Fund Act. The Legislature shall
19 appropriate the sum of ~~four million five hundred~~
20 ~~thousand~~ four million two hundred seventy-five thousand
21 dollars each year for fiscal year ~~1989-90~~ 1993-94
22 through fiscal year 2008-09.
23 (2) The Legislature hereby finds and
24 determines that the projects funded from the University
1 Buildings Renovation and Land Acquisition Fund, the
2 State College Buildings Renovation and Land Acquisition
3 Fund, the University Facilities Construction Fund, the
4 University Facility Improvement Fund, the State College
5 Facilities Improvement Fund, the Municipal
6 Infrastructure Redevelopment Fund, and the University of
7 Nebraska Eppley Science Hall Construction Fund are of
8 critical importance to the State of Nebraska. It is the
9 intent of the Legislature that the allocations and
10 appropriations made by the Legislature to such funds or,
11 in the case of allocations for the Municipal
12 Infrastructure Redevelopment Fund, to the particular
13 municipality's account not be reduced until all
14 contracts and securities relating to the construction
15 and financing of the projects or portions of the
16 projects funded from such funds or accounts of such
17 funds are completed or paid or, in the case of the
18 Municipal Infrastructure Redevelopment Fund, the earlier
19 of such date or July 1, 2009, and that until such time
20 any reductions in the cigarette tax rate made by the
21 Legislature shall be simultaneously accompanied by
22 equivalent reductions in the amount dedicated to the
23 General Fund from cigarette tax revenue. Any provision

24 made by the Legislature for distribution of the proceeds
1 of the cigarette tax for projects or programs other than
2 those to (a) the General Fund, (b) the Nebraska Outdoor
3 Recreation Development Cash Fund, (c) the Department of
4 Health Cash Fund, (d) the University Buildings
5 Renovation and Land Acquisition Fund and the State
6 College Buildings Renovation and Land Acquisition Fund,
7 (e) the University Facilities Construction Fund, (f) the
8 University Facility Improvement Fund and the State
9 College Facilities Improvement Fund, (g) the Municipal
10 Infrastructure Redevelopment Fund, and (h) the
11 University of Nebraska Eppley Science Hall Construction
12 Fund shall not be made a higher priority than or an
13 equal priority to any of the programs or projects
14 specified in subdivisions (a) through (h) of this
15 subsection."

Mr. Schellpeper asked unanimous consent to print the following amendment to LB 1 in the Journal. No objections. So ordered.

AM65SS

1 1. On page 145, line 23, strike "186,370,157"
2 and insert "187,359,923"; and in line 25 strike
3 "312,877,349" and insert "314,499,792".
4 2. On page 146, line 2, strike "499,247,506"
5 and insert "501,859,715"; in line 8 strike
6 "\$186,113,687" and insert "\$187,103,453"; and in line 9
7 strike "\$312,231,596" and insert "\$313,854,039".
8 3. On page 149, line 8, strike "298,628,660"
9 and insert "299,618,426"; in line 11 strike
10 "447,013,624" and insert "448,636,067"; and in line 13
11 strike "746,200,284" and insert "748,812,493".

UNANIMOUS CONSENT - Member Excused

Mr. Beyer asked unanimous consent to be excused. No objections. So ordered.

GENERAL FILE

LEGISLATIVE BILL 3. Title read. Considered.

Mr. Withem withdrew his pending amendment, AM59SS, found in this day's Journal.

Mr. Withem offered the following amendment:

AM62SS

1. Insert the following new section:

"Sec. 2. (1) For purposes of this section, institution shall mean a public or private entity, not owned or operated by the public school district, which operates a residential facility and a special education program and which has an approved special education rate established by the State Department of Education. Institution shall include a school program with an approved special education rate operated by a psychiatric hospital or by a group home or a child-caring agency, as defined in section 71-1902, licensed by the Department of Social Services.

(2) Responsibility for education and the educational costs, including special education, for a ward of the state or of any court shall be as follows:

(a) When the ward resides in a foster family home licensed or approved by the Department of Social Services or a foster home maintained or used by the Department of Correctional Services pursuant to section 83-108.04, the ward shall be deemed to be a resident of the school district in which the foster family home or foster home is located and the school district where the ward resides shall be responsible for the education and the educational costs for the ward to the same extent as for any other resident student of the district;

(b) When the ward resides in an institution and is receiving a special education and related services pursuant to the Special Education Act, the ward shall be deemed to be a resident of the school district in which the institution is located and the school district where the ward resides shall be responsible for the education and the special educational costs for the ward to the same extent as for any other resident student of the district; and

(c) When the ward resides in a group home or a child-caring agency, as defined in section 79-1902, licensed by the Department of Social Services and the group home or child-caring agency does not own or operate an approved school or special education program, the cost of his or her education and the required transportation costs associated with the child's education shall be paid by the state, but not in advance, to the receiving school district under rules

23 and regulations prescribed by the Department of Social
 24 Services."

- 1 2. Reinstate the stricken matter beginning
- 2 with "In" on page 2, line 21, through the period on page
- 3 3, line 8.
- 4 3. Renumber the remaining sections
- 5 accordingly.

Mr. Withem withdrew his pending amendment.

Messrs. Moore and Ashford offered the following amendment:
 AM09SS

- 1 1. Strike the original sections and insert
- 2 the following new sections:
- 3 "Section 1. That section 79-445, Revised
- 4 Statutes Supplement, 1992, be amended to read as
- 5 follows:
- 6 79-445. (1) A school board or board of
- 7 education may admit nonresident pupils to the school
- 8 district, ~~school~~, may determine the rate of tuition of
- 9 the pupils, and shall collect such tuition in advance
- 10 except as otherwise provided in this section.
- 11 (2) When the pupil as a ward of the state or
- 12 as a ward of any court ~~(1)~~ (a) has been placed in a
- 13 public school district other than the district in which
- 14 he or she resided at the time he or she became a ward
- 15 and such ward does not reside in a foster family home
- 16 licensed or approved by the Department of Social
- 17 Services or a foster home maintained or used by the
- 18 Department of Correctional Services pursuant to section
- 19 83-108.04 or (2) (b) has been placed in any institution
- 20 which maintains a special education program which has
- 21 been approved by the State Department of Education and
- 1 such institution is not owned or operated by the pupil's
- 2 resident school district, the cost of his or her
- 3 education and the required transportation costs
- 4 associated with the child's education shall be paid by
- 5 the state, but not in advance, to the receiving school
- 6 district or approved institution or paid to the county
- 7 nonresident high school tuition fund under rules and
- 8 regulations prescribed by the Department of Social
- 9 Services. Any pupil who is a ward of the state or a
- 10 ward of any court who resides in a foster family home
- 11 licensed or approved by the Department of Social
- 12 Services or a foster home maintained or used by the

13 Department of Correctional Services pursuant to section
14 83-108.04 shall be deemed a resident of the district in
15 which the foster family home or foster home is located.

16 (3) In the case of any individual eighteen
17 years of age or younger who is a ward of the state or
18 any court and who is placed in a county detention home
19 established under section 43-2,110, the cost of his or
20 her education shall be paid by the state, regardless of
21 such individual's district of residency, to the agency
22 or institution which: (1) (a) Is selected by the county
23 board with jurisdiction over such detention home; (2)
24 (b) has agreed or contracted with such county board to
1 provide educational services; and (3) (c) has been
2 approved by the State Department of Education pursuant
3 to rules and regulations prescribed by the State Board
4 of Education.

5 (4) No tuition shall be charged for children
6 who may be by law allowed to attend the school without
7 charge. The ~~public~~ school district in which the parent
8 or guardian of any nonresident pupil maintains his or
9 her legal residence shall not be liable for the payment
10 of tuition fees and the children of school age of such
11 parent or guardian shall be entitled to free common
12 school privileges the same as any child who is a bona
13 fide resident of such school district whenever the
14 parent or guardian of such nonresident pupil, having
15 entered the public service of the State of Nebraska, has
16 ~~removed~~ moved from the school district in which he or
17 she maintains legal residence into another school
18 district for temporary purposes incidental to serving
19 the state, without the intention of making the school
20 district to which the parent or guardian has ~~removed~~
21 moved his or her legal residence. No tuition shall be
22 charged for a child whose parents are divorced if such
23 child attends school in a district in which either
24 parent resides. The burden of proof as to legal
1 residence shall rest with the person claiming legal
2 residence in any district. The school district may
3 allow a pupil whose residency in the district ceases
4 during a school year to continue attending school for
5 the remainder of that school year without payment of
6 tuition.

7 (5) The school board or board of education may
8 admit nonresident pupils to the ~~district~~ school district
9 without requiring the payment of tuition if such pupils

10 are in the actual physical custody of a resident of the
11 school district and are not residents of an adjoining
12 school district and the school board or board of
13 education determines that the pupils would otherwise be
14 denied guaranteed free common school privileges.

15 (6) The changes made by this legislative bill
16 shall apply to all reimbursements under this section for
17 school year 1992-93 and all school years thereafter.

18 Sec. 2. That original section 79-445, Revised
19 Statutes Supplement, 1992, is repealed."

Messrs. Moore and Ashford withdrew their pending amendment.

Advanced to E & R for review with 25 ayes, 0 nays, 16 present and not voting, and 8 excused and not voting.

LEGISLATIVE BILL 15. Title read. Considered.

Advanced to E & R for review with 30 ayes, 0 nays, 12 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 19. Title read. Considered.

Advanced to E & R for review with 29 ayes, 0 nays, 13 present and not voting, and 7 excused and not voting.

LEGISLATIVE BILL 29. Title read. Considered.

Standing Committee amendment, AM33SS, found in the Journal on page 84, was considered.

MR. WARNER PRESIDING

Messrs. R. Johnson and Conway asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Wehrbein moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The Standing Committee amendment was adopted with 25 ayes, 4 nays, 11 present and not voting, and 9 excused and not voting.

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Advanced to E & R for review with 33 ayes, 0 nays, 8 present and not voting, and 8 excused and not voting.

Messrs. Chizek and Hefner asked unanimous consent to be excused until they return. No objections. So ordered.

LEGISLATIVE BILL 13. Title read. Considered.

Mrs. Nelson asked unanimous consent to be excused. No objections. So ordered.

Advanced to E & R for review with 25 ayes, 0 nays, 13 present and not voting, and 11 excused and not voting.

Mr. Byars asked unanimous consent to be excused. No objections. So ordered.

LEGISLATIVE BILL 26. Title read. Considered.

Standing Committee amendment, AM34SS, found in the Journal on page 91, was adopted with 25 ayes, 0 nays, 12 present and not voting, and 12 excused and not voting.

Mr. Peterson asked unanimous consent to be excused until he returns. No objections. So ordered.

Messrs. Withem and Landis offered the following amendment:
AM63SS

- 1 1. Strike original section 17 and all
- 2 amendments thereto and insert the following new section:
- 3 "Sec. 17. That section 69-1317, Reissue
- 4 Revised Statutes of Nebraska, 1943, be amended to read
- 5 as follows:
- 6 69-1317. (a) All funds received under
- 7 ~~sections 69-1301 to 69-1329~~ the Uniform Disposition of
- 8 Unclaimed Property Act, including the proceeds from the
- 9 sale of abandoned property under section 69-1316, shall
- 10 be deposited by the State Treasurer in a separate trust
- 11 fund from which he or she shall make prompt payment of
- 12 claims allowed pursuant to ~~sections 69-1301 to 69-1329~~
- 13 the act. Before making the deposit he or she shall

14 record the name and last-known address of each person
15 appearing from the holders' reports to be entitled to
16 the abandoned property, the name and last-known address
17 of each insured person or annuitant, and with respect to
18 each policy or contract listed in the report of a life
19 insurance corporation, its number, the name of the
20 corporation, and the amount due. The record shall be
21 available for public inspection during business hours.

1 The record shall not be subject to public
2 inspection or available for copying, reproduction, or
3 scrutiny by commercial or professional locators of
4 property presumed abandoned who charge any service or
5 finders' fee until ninety days after the names from the
6 holders' reports have been published or officially
7 disclosed.

8 A professional finders' fee shall be limited
9 to ten percent of the total amount of the property
10 presumed abandoned if any claimant is contacted within
11 nine months of the date the property was reported to the
12 State Treasurer. To claim any such fee, the nature and
13 location of the property must be disclosed to the
14 claimant by the finder.

15 (b)(1) On or before November 1 of each year
16 prior to the effective date of this act the State
17 Treasurer shall transfer any balance in excess of fifty
18 thousand dollars from the separate trust fund to the
19 permanent school fund.

20 (2) On or after the effective date of this
21 act, the State Treasurer shall periodically transfer any
22 balance in excess of an amount not to exceed five
23 hundred thousand dollars from the separate trust fund to
24 the General Fund no less frequently than on or before
1 November 1 and May 1 of each year, except that the total
2 amount of all such transfers shall not exceed five
3 million dollars.

4 (3)(i) On the next succeeding November 1 after
5 five million dollars has been transferred to the General
6 Fund in the manner described in subdivision (b)(2) of
7 this section, or (ii) on November 1, 1996, whichever
8 occurs first, and on or before November 1 of each year
9 thereafter, the State Treasurer shall transfer any
10 balance in excess of an amount not to exceed five
11 hundred thousand dollars from the separate trust fund to
12 the permanent school fund.

13 (c) Before making any deposit to the credit of

14 the permanent school fund or the General Fund, the State
15 Treasurer may deduct: (1) Any costs in connection with
16 sale of abandoned property, (2) any costs of mailing and
17 publication in connection with any abandoned property,
18 and (3) reasonable service charges and place such funds
19 in the Unclaimed Property Cash Fund which is hereby
20 created. Any money in the Unclaimed Property Cash Fund
21 available for investment shall be invested by the state
22 investment officer pursuant to sections 72-1237 to
23 ~~72-1269~~ 72-1276."

The Withem-Landis amendment was adopted with 30 ayes, 0 nays, 7 present and not voting, and 12 excused and not voting.

Mr. Ashford asked unanimous consent to be excused until he returns. No objections. So ordered.

Advanced to E & R for review with 28 ayes, 0 nays, 9 present and not voting, and 12 excused and not voting.

LEGISLATIVE BILL 14. The Chizek pending motion to indefinitely postpone, found in the Journal on page 94, was withdrawn.

Mr. Chambers withdrew his pending amendments, FA4S3, FA5S3, and FA6S3, found in the Journal on page 96.

Mr. Chambers withdrew his pending motion, found in the Journal on page 96, to return LB 14 to Government, Military and Veterans Affairs Committee.

Mr. Warner renewed his pending amendment, AM31SS, found in the Journal on page 88.

The Warner amendment was adopted with 27 ayes, 0 nays, 10 present and not voting, and 12 excused and not voting.

Advanced to E & R for review with 28 ayes, 0 nays, 9 present and not voting, and 12 excused and not voting.

ANNOUNCEMENT

Mr. Moore announced the Appropriations Committee will meet at 8:30 tomorrow morning in Room 1003.

VISITORS

Visitor to the Chamber was Dr. Barbara Boettcher from the University Foundations Class.

ADJOURNMENT

At 9:06 p.m., on a motion by Mrs. Rasmussen, the Legislature adjourned until 9:00 a.m., Wednesday, September 30, 1992.

Patrick J. O'Donnell
Clerk of the Legislature

printed on recycled paper

EIGHTH DAY - SEPTEMBER 30, 1992

LEGISLATIVE JOURNAL

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LEGISLATIVE JOURNAL

**NINETY-SECOND LEGISLATURE
THIRD SPECIAL SESSION**

EIGHTH DAY

Legislative Chamber, Lincoln, Nebraska
Wednesday, September 30, 1992

Pursuant to adjournment, the Legislature met at 9:02 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Senator C. N. Bud Robinson.

ROLL CALL

The roll was called and all members were present except Mrs. Labedz who was excused; and Messrs. Beyer, Dierks, Hall, Hartnett, Horgan, Landis, Lindsay, Morrissey, Schmit, Schrock, Withem, Mmes. Rasmussen, and Robak who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the seventh day was approved.

**SELECT COMMITTEE REPORTS
Enrollment and Review**

LEGISLATIVE BILL 20. Placed on Select File.

LEGISLATIVE BILL 3. Placed on Select File.

LEGISLATIVE BILL 15. Placed on Select File.

LEGISLATIVE BILL 19. Placed on Select File as amended.

E & R amendment to LB 19:

AM5313

- 1 1. On page 2, line 21, after "Education"
- 2 insert an underscored comma.

(Signed) Eric Will, Chairperson

SELECT FILE

LEGISLATIVE BILL 12. Advanced to E & R for engrossment.

LEGISLATIVE BILL 1. E & R amendment, AM5309, found in the Journal on page 88, was adopted.

Mr. Ashford renewed his pending amendment, AM20SS, found in the Journal on page 83.

Mr. Ashford withdrew his pending amendment.

Mr. Haberman withdrew his pending amendment, AM55SS, found in the Journal on page 113.

Mr. Schellpeper renewed his pending amendment, AM65SS, found in the Journal on page 123.

Mr. Schellpeper withdrew his pending amendment.

Mr. Moore offered the following amendment:
AM68SS

(Amendments to Standing Committee amendments, AM18SS)

- 1 1. On page 4, line 11, strike "\$1,206,537"
- 2 and insert "\$854,852".

The Moore amendment was adopted with 27 ayes, 0 nays, 16 present and not voting, and 6 excused and not voting.

Mr. Wesely offered the following amendment:
FA12S3

Eliminate the General Fund appropriation for the Nebraska College of Technical Agriculture at Curtis

On page 164, lines 15 & 16, strike "263,979,609" and insert "262,458,609"

MR. CONWAY PRESIDING

Mr. Wesely withdrew his pending amendment.

Pending.

SELECT COMMITTEE REPORTS
Enrollment and Review

LEGISLATIVE BILL 29. Placed on Select File as amended.

E & R amendment to LB 29:

AM5312

- 1 1. On page 1, strike beginning with
- 2 "sections" in line 2 through line 10 and insert "section
- 3 81-121.05, Revised Statutes Supplement, 1992; to change
- 4 a date relating to role and mission changes; and to
- 5 repeal the original section."

LEGISLATIVE BILL 13. Placed on Select File as amended.

E & R amendment to LB 13:

AM5314

- 1 1. On page 1, line 1, after "parole" insert
- 2 "and pardons"; and in line 6 after the first comma
- 3 insert "the Board of Pardons,".
- 4 2. On page 3, line 19, strike the comma and
- 5 show as stricken.
- 6 3. On page 6, lines 9 and 22, strike "Board
- 7 of Parole", show as stricken, and insert "board".
- 8 4. On page 9, line 11, strike "section" and
- 9 insert "act".

LEGISLATIVE BILL 26. Placed on Select File as amended.

E & R amendment to LB 26:

AM5315

- 1 1. In the Withem-Landis amendment, AM63SS, on
- 2 page 3, line 7, strike the first comma.
- 3 2. On page 1, line 2, strike "69-1307,"; in
- 4 line 5 after the semicolon insert "to redefine terms;"
- 5 and in line 9 after the first semicolon insert "to
- 6 provide penalties;" and after the second semicolon
- 7 insert "to appropriate funds;".
- 8 3. On page 8, line 9, strike "Correspond" and
- 9 insert "Corresponded".
- 10 4. On page 9, line 10, strike the comma.
- 11 5. On page 27, line 25, strike "this" and
- 12 insert "the".
- 13 6. On page 28, line 7, strike "this act" and
- 14 insert "the Uniform Disposition of Unclaimed Property
- 15 Act"; in line 16 strike the new matter and insert "the
- 16 act"; and in line 19 strike "this" and insert "the".
- 17 7. On page 29, line 4, strike the second

- 18 "subdivision" and insert "subsection"; and in line 21
19 after "45-103" insert "as such section was".
20 8. On page 31, line 3, strike "69-1307,".

LEGISLATIVE BILL 14. Placed on Select File as amended.
E & R amendment to LB 14:
AM5305

- 1 1. Insert the following new sections:
2 "Sec. 5. That section 81-8,106, Reissue
3 Revised Statutes of Nebraska, 1943, be amended to read
4 as follows:
5 81-8,106. Nothing in section 11 of this act
6 shall interfere with, limit, or affect in any way the
7 method of employing or advancing any employee by any
8 agency, or division thereof, receiving funds from the
9 government of the United States under laws or
10 regulations of the United States which require the
11 maintenance of a merit system or personnel plan by such
12 agency or division as a condition for receiving funds
13 from the government of the United States. The Joint
14 Merit System shall remain in full force and effect until
15 such time as the plan and rules promulgated under the
16 provisions of sections 81-1301 to ~~81-1317~~ 81-1316 are
17 approved by the appropriate federal agencies. ~~Where~~
18 When there is no substantive objection founded on
19 federal requirements for a merit system, the policies,
20 rules and regulations, systems, and procedures developed
21 and promulgated by the state personnel service shall
1 govern the activities of state agencies otherwise
2 covered by the Joint Merit System. As soon as
3 practicable after the federal agencies approve the plan
4 and rules and at a time agreed upon between the State
5 Personnel Board and the Joint Merit System Council, the
6 powers, authority, and jurisdiction now exercised and
7 imposed by law upon the Joint Merit System Council shall
8 be transferred to and imposed upon the State Personnel
9 Board. ~~Simultaneously, personnel assigned to, office~~
10 ~~fixtures and equipment in the possession of, and records~~
11 ~~maintained by the Joint Merit System Council Office~~
12 ~~shall be transferred to the State Personnel Office.~~
13 Sec. 29. That section 81-1424, Reissue
14 Revised Statutes of Nebraska, 1943, be amended to read
15 as follows:
16 81-1424. The Governor shall appoint and set
17 the salary of the executive director consistent with any

18 compensation and pay plan established by the State
19 ~~Personnel Office~~ personnel division of the Department of
20 Administrative Services. The executive director shall
21 be qualified for ~~his~~ the position by appropriate
22 training and experience in the field of criminal law and
23 justice. The executive director may be removed only for
24 cause by the Governor after a hearing, if requested."

1 2. On page 1, line 2, after the fourth comma
2 insert "81-8,106,"; in line 6 after the last comma
3 insert "81-1424,"; and in line 14 after the semicolon
4 insert "to eliminate references to the State Personnel
5 Office;"

6 3. On page 2, line 6, strike "to" and insert
7 "for".

8 4. On page 9, line 12, strike "the", show as
9 stricken, and insert "their".

10 5. On page 12, line 15, strike "program" and
11 insert "Risk Management Program"; and in line 17 strike
12 "Risk Management Program", show as stricken, and insert
13 "program".

14 6. On page 14, line 15, strike the comma and
15 show as stricken; and in lines 18 and 19 strike the
16 semicolon, show as stricken, and insert an underscored
17 comma; in line 24 strike the first "and", show as
18 stricken, and insert an underscored comma; and in line
19 25 strike the last comma and show as stricken.

20 7. On page 15, line 2, strike "and" and show
21 as stricken; and in line 3 after "basis" insert an
22 underscored comma and reinstate the stricken "shall".

23 8. On page 20, line 25, strike the comma,
24 show as stricken, and insert "and".

1 9. On page 25, line 13, strike the new matter
2 and reinstate the stricken matter; and in line 14 strike
3 "are" and reinstate the stricken matter.

4 10. On page 26, line 18, strike "and" and
5 show as stricken.

6 11. On page 32, line 5, strike the comma and
7 show as stricken.

8 12. On page 59, line 9, after the third comma
9 insert "81-8,106,"; and in line 12 after the fifth comma
10 insert "81-1424,".

11 13. Renumber the remaining sections
12 accordingly.

(Signed) Eric Will, Chairperson

SELECT FILE

LEGISLATIVE BILL 1. Messrs. Schellpeper, Wesely, and Schmit offered the following amendment:

AM73SS

- 1 1. On page 145, line 23, strike "186,370,157"
- 2 and insert "186,775,006"; and in line 25 strike
- 3 "312,877,349" and insert "314,499,792".
- 4 2. On page 146, line 2, strike "499,247,506"
- 5 and insert "501,274,798"; in line 8 strike
- 6 "\$186,113,687" and insert "\$186,518,536"; and in line 9
- 7 strike "\$312,231,596" and insert "\$313,854,039".
- 8 3. On page 149, line 8, strike "298,628,660"
- 9 and insert "299,033,509"; in line 11 strike
- 10 "447,013,624" and insert "448,636,067"; and in line 13
- 11 strike "746,200,284" and insert "748,227,576".

Mr. Robinson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

The Schellpeper-Wesely-Schmit amendment was adopted with 30 ayes, 0 nays, 15 present and not voting, and 4 excused and not voting.

Messrs. R. Johnson and Chambers asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Haberman offered the following amendment:

FA13S3

Eliminate the General Fund appropriation for UNO of 246,250 on page 171 lines 12 through 15

Mr. Haberman withdrew his pending amendment.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 2. E & R amendment, AM5307, found in the Journal on page 90, was adopted.

Advanced to E & R for engrossment.

SPEAKER BAACK PRESIDING

LEGISLATIVE BILL 11. Mr. Schellpeper withdrew his pending amendment, AM44SS, found in the Journal on page 106.

Mr. Schellpeper renewed his pending amendment, AM45SS, found in the Journal on page 107.

Messrs. Kristensen and Schmit asked unanimous consent to be excused until they return. No objections. So ordered.

Mr. Landis moved the previous question. The question is, "Shall the debate now close?" The motion lost with 19 ayes, 14 nays, and 16 not voting.

Pending.

LEGISLATIVE BILL 4. E & R amendment, AM5311, found in the Journal on page 119, was adopted.

Mr. Hall requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 26 ayes, 6 nays, 11 present and not voting, and 6 excused and not voting.

LEGISLATIVE BILL 15. Advanced to E & R for engrossment.

LEGISLATIVE BILL 19. E & R amendment, AM5313, found in this day's Journal, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 13. E & R amendment, AM5314, found in this day's Journal, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 14. E & R amendment, AM5305, found in this day's Journal, was adopted.

Advanced to E & R for engrossment.

UNANIMOUS CONSENT - Print in Journal

Mr. Conway asked unanimous consent to print the following amendment to LR 3 in the Journal. No objections. So ordered.

AM71SS

- 1 1. In the first "WHEREAS" clause, found on
- 2 page 83 of the Journal, in line 4 after "the" insert
- 3 "constitutional status of".

**SELECT COMMITTEE REPORT
Enrollment and Review**

Correctly Engrossed

The following bill was correctly engrossed: 12.

(Signed) Eric Will, Chairperson

RECESS

At 12:05 p.m., on a motion by Mr. Hefner, the Legislature recessed until 1:30 p.m.

AFTER RECESS

The Legislature reconvened at 1:30 p.m., Speaker Baack presiding.

ROLL CALL

The roll was called and all members were present except Mrs. Labedz who was excused; and Messrs. Abboud, Beyer, Conway, Dierks, R. Johnson, Lynch, Schmit, Warner, Mmes. Hillman, Robak, and Ms. Schimek who were excused until they arrive.

REPORT

Received annual report from Nebraska Public Service Commission on telecommunications in compliance with the Telecommunications Act of 1986, LB 835, Neb. Rev. Stat. §86-804, 1991 Supp.

SELECT FILE

LEGISLATIVE BILL 11. The Schellpeper pending amendment, AM45SS, found in the Journal on page 107, and considered in this day's Journal, was renewed.

Mr. Cudaback moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Mr. Schellpeper moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Mr. Schellpeper requested a roll call vote on his amendment.

Voting in the affirmative, 24:

Ashford	Crosby	Hefner	Lynch	Rogers
Byars	Cudaback	Horgan	Morrissey	Schellpeper
Chizek	Dierks	Johnson, L.	Pirsch	Schrock
Conway	Haberman	Kristensen	Robak	Withem
Coordsen	Hartnett	Landis	Robinson	

Voting in the negative, 18:

Baack	Bohlke	Lamb	Rasmussen	Wesely
Bernard-	Elmer	Lindsay	Schimek	Wickersham
Stevens	Hall	Moore	Warner	Will
Beutler	Hillman	Nelson	Wehrbein	

Present and not voting, 2:

Chambers Peterson

Excused and not voting, 5:

Abboud Beyer Johnson, R. Labedz Schmit

The Schellpeper amendment lost with 24 ayes, 18 nays, 2 present and not voting, and 5 excused and not voting.

The Chair declared the call raised.

Mr. Conway renewed his pending amendment, AM53SS, found in the Journal on page 108.

Mr. Chambers asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Moore requested a record vote on the Conway amendment.

Voting in the affirmative, 14:

Conway	Coordsen	Cudaback	Haberman	Hartnett
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Hefner	Kristensen	Morrissey	Rogers	Withem
Horgan	Lynch	Robak	Schellpeper	

Voting in the negative, 21:

Ashford	Crosby	Johnson, L.	Moore	Warner
Baack	Elmer	Lamb	Nelson	Wehrbein
Beutler	Hall	Landis	Pirsch	Wesely
Bohlke	Hillman	Lindsay	Rasmussen	Wickersham
Byars				

Present and not voting, 8:

Bernard-	Chizek	Peterson	Schimek	Will
Stevens	Dierks	Robinson	Schrock	

Excused and not voting, 6:

Abboud	Chambers	Johnson, R.	Labedz	Schmit
Beyer				

The Conway amendment lost with 14 ayes, 21 nays, 8 present and not voting, and 6 excused and not voting.

Mr. Lynch renewed his pending amendment, AM57SS, found in the Journal on page 119.

The Lynch amendment lost with 15 ayes, 20 nays, 9 present and not voting, and 5 excused and not voting.

Mr. Schellpeper offered the following amendment:
AM42SS

- 1 1. On page 2, line 21, reinstate the stricken
- 2 "four" and strike "three".
- 3 2. On page 6, lines 17 and 20, reinstate the
- 4 stricken "four"; and in lines 17 and 21 strike "three".

MR. CONWAY PRESIDING

SPEAKER BAACK PRESIDING

Mr. Wehrbein moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

MR. CONWAY PRESIDING

Mr. Schellpeper moved for a call of the house. The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

Mr. Schellpeper requested a roll call vote on his amendment.

Voting in the affirmative, 24:

Byars	Cudaback	Horgan	Peterson	Schellpeper
Chizek	Dierks	Kristensen	Pirsch	Schmit
Conway	Haberman	Landis	Robak	Schrock
Coordsen	Hartnett	Lynch	Robinson	Withem
Crosby	Hefner	Morrissey	Rogers	

Voting in the negative, 21:

Abboud	Beutler	Johnson, L.	Nelson	Wehrbein
Ashford	Bohlke	Lamb	Rasmussen	Wesely
Baack	Elmer	Lindsay	Schimek	Wickersham
Bernard-	Hall	Moore	Warner	Will
Stevens	Hillman			

Present and not voting, 1:

Chambers

Excused and not voting, 3:

Beyer Johnson, R. Labedz

The Schellpeper amendment lost with 24 ayes, 21 nays, 1 present and not voting, and 3 excused and not voting.

The Chair declared the call raised.

SPEAKER BAACK PRESIDING

Mr. Ashford offered the following amendment:

AM77SS

- 1 1. On page 8, strike line 15 and insert
- 2 2 "January 1, 1994."

The Ashford amendment was adopted with 27 ayes, 0 nays, 20 present and not voting, and 2 excused and not voting.

Mr. Haberman offered the following amendment:

FA14S3

Add a new section:

In order to offset the \$1,500,000 budget reduction to MIRF, there is hereby imposed the following increase in taxes:

Beer from 23¢ per gallon to 25.5¢ per gallon

Alcohol from 3.00 to 3.30 per gallon

Wine from 1.35 to 1.49 per gallon

Light wine from 75¢ to 83¢ per gallon.

The revenue generated from these increases shall be credited to MIRF act.

Mrs. Bohlke requested a ruling of the Chair on whether the Haberman amendment is germane to the bill.

The Chair ruled the Haberman amendment is not germane to the bill.

Mr. Hefner requested a machine vote on the advancement of the bill.

Mr. Hefner requested a record vote on the advancement of the bill.

Voting in the affirmative, 27:

Abboud	Bohlke	Johnson, L.	Peterson	Wehrbein
Ashford	Chizek	Johnson, R.	Pirsch	Wesely
Baack	Elmer	Lamb	Rasmussen	Wickersham
Bernard-	Hall	Lindsay	Schimek	Will
Stevens	Hillman	Moore	Warner	Withem
Beutler	Horgan	Nelson		

Voting in the negative, 17:

Byars	Cudaback	Hefner	Morrissey	Rogers
Conway	Dierks	Kristensen	Robak	Schellpeper
Coordsen	Haberman	Landis	Robinson	Schrock
Crosby	Hartnett			

Present and not voting, 3:

Chambers	Lynch	Schmit
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Excused and not voting, 2:

Beyer	Labeledz
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Advanced to E & R for engrossment with 27 ayes, 17 nays, 3 present and not voting, and 2 excused and not voting.

LEGISLATIVE BILL 20. Advanced to E & R for engrossment.

LEGISLATIVE BILL 26. E & R amendment, AM5315, found in this day's Journal, was adopted.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 9. E & R amendment, AM5308, found in the Journal on page 92, was adopted.

Mr. Beutler offered the following amendment:

AM40SS

- 1 1. Strike the original sections and all
- 2 amendments thereto and insert the following new
- 3 sections:
- 4 "Section 1. That Laws 1991, LB 760, section
- 5 1, be amended to read as follows:
- 6 Section 1. Program 912. The Board of
- 7 Trustees of the Nebraska State Colleges is hereby
- 8 authorized to construct a classroom and laboratory
- 9 facility to house the Division of Business at Wayne
- 10 State College. There is hereby appropriated \$74,480
- 11 from the Nebraska Capital Construction Fund for
- 12 FY1992-93 for Wayne State College to continue planning
- 13 for the facility through the design development phase.
- 14 There is hereby appropriated \$1,962,760 from the
- 15 Nebraska Capital Construction Fund for FY1993-94
- 16 FY1994-95 for Wayne State College to complete planning
- 17 and initiate construction of the project. There is
- 18 hereby appropriated \$1,962,760 from the Nebraska Capital
- 19 Construction Fund for FY1994-95 FY1995-96 to complete
- 20 this project.
- 21 Sec. 2. That Laws 1991, LB 760, section 2, be
- 1 amended to read as follows:
- 2 Sec. 2. Program 916. The Board of Regents of
- 3 the University of Nebraska is hereby authorized to
- 4 construct a Headquarters/Outreach Building at the
- 5 Agriculture Research and Development Center at Mead,
- 6 Nebraska. The total project cost shall not exceed
- 7 \$2,665,000 from state funds. Nonstate funds may be
- 8 added to this project in an amount not to exceed

9 \$225,000. There is hereby appropriated \$49,622 from the
10 Nebraska Capital Construction Fund for FY1992-93 to
11 continue planning for the facility through the design
12 development phase. There is hereby appropriated
13 \$1,307,689 from the Nebraska Capital Construction Fund
14 for ~~FY1993-94~~ FY1994-95 to complete planning and
15 initiate construction. There is hereby appropriated
16 \$1,307,689 from the Nebraska Capital Construction Fund
17 for ~~FY1994-95~~ FY1995-96 to complete this project.

18 Sec. 3. That Laws 1991, LB 760, section 3, be
19 amended to read as follows:

20 Sec. 3. Program 917. The Board of Regents of
21 the University of Nebraska is hereby authorized to
22 update the mechanical systems and provide for
23 handicapped accessible restrooms at the Elliott Building
24 at the Panhandle Research and Extension Center in
1 Scottsbluff, Nebraska. There is hereby appropriated
2 \$8,193 from the Nebraska Capital Construction Fund for
3 FY1992-93 to continue planning. There is hereby
4 appropriated \$-0- from the Nebraska Capital Construction
5 Fund for FY1993-94. There is hereby appropriated
6 \$431,807 from the Nebraska Capital Construction Fund for
7 ~~FY1994-95~~ FY1995-96 to complete this project.

8 Sec. 4. That Laws 1991, LB 760, section 4, be
9 amended to read as follows:

10 Sec. 4. Program 919. The Board of Regents of
11 the University of Nebraska is hereby authorized to
12 construct a Swine Research Growing and Finishing
13 Facility at the West Central Research and Extension
14 Center in North Platte, Nebraska. There is hereby
15 appropriated \$6,051 from the Nebraska Capital
16 Construction Fund for FY1992-93 to continue planning.
17 There is hereby appropriated \$-0- from the Nebraska
18 Capital Construction Fund for FY1993-94. There is
19 hereby appropriated \$318,949 from the Nebraska Capital
20 Construction Fund for ~~FY1994-95~~ FY1995-96 to complete
21 this project.

22 Sec. 5. That Laws 1991, LB 760, section 5, be
23 amended to read as follows:

24 Sec. 5. Program 920. The Board of Regents of
1 the University of Nebraska is hereby authorized to
2 construct a Research and Extension Support Building at
3 the West Central Research and Extension Center in North
4 Platte, Nebraska. There is hereby appropriated \$5,400
5 from the Nebraska Capital Construction Fund for

6 FY1992-93 to continue planning. There is hereby
7 appropriated \$-0- from the Nebraska Capital Construction
8 Fund for FY1993-94. There is hereby appropriated
9 \$284,600 from the Nebraska Capital Construction Fund for
10 ~~FY1994-95~~ FY1995-96 to complete this project.

11 Sec. 6. That Laws 1991, LB 760, section 6, be
12 amended to read as follows:

13 Sec. 6. Program 921. The Board of Regents of
14 the University of Nebraska is hereby authorized to
15 construct a Staff/Laboratory/Conference Center at the
16 Gudmundsen Sandhills Laboratory in Whitman, Nebraska.
17 There is hereby appropriated \$5,251 from the Nebraska
18 Capital Construction Fund for FY1992-93 to continue
19 planning. There is hereby appropriated \$-0- from the
20 Nebraska Capital Construction Fund for FY1993-94. There
21 is hereby appropriated \$276,749 from the Nebraska
22 Capital Construction Fund for ~~FY1994-95~~ FY1995-96 to
23 complete this project.

24 Sec. 7. That Laws 1991, LB 760, section 7, be
1 amended to read as follows:

2 Sec. 7. Program 925. The Board of Regents of
3 the University of Nebraska is hereby authorized to
4 construct a Swine Research Growing and Finishing
5 Facility at the Northeast Research and Extension Center
6 in Concord, Nebraska. The total project cost shall not
7 exceed \$97,000 from state funds. Nonstate funds may be
8 added to this project in an amount not to exceed
9 \$66,000. There is hereby appropriated \$1,806 from the
10 Nebraska Capital Construction Fund for FY1992-93 to
11 continue planning. There is hereby appropriated \$-0-
12 from the Nebraska Capital Construction Fund for
13 FY1993-94. There is hereby appropriated \$95,194 from
14 the Nebraska Capital Construction Fund for ~~FY1994-95~~
15 FY1995-96 to complete this project.

16 Sec. 8. That Laws 1991, LB 760, section 10,
17 be amended to read as follows:

18 Sec. 10. Program 980. The Board of Regents
19 of the University of Nebraska is hereby authorized to
20 construct an addition to Copeland Hall at the University
21 of Nebraska at Kearney. There is hereby appropriated
22 \$42,826 from the Nebraska Capital Construction Fund for
23 FY1992-93 to continue planning for the facility through
24 the design development phase. There is hereby
1 appropriated \$1,128,587 from the Nebraska Capital
2 Construction Fund for ~~FY1993-94~~ FY1994-95 to continue

3 planning and initiate construction. There is hereby
 4 appropriated \$1,128,587 from the Nebraska Capital
 5 Construction Fund for ~~FY1994-95~~ FY1995-96 to complete
 6 this project.

7 Sec. 9. That Laws 1991, LB 760, section 11,
 8 be amended to read as follows:

9 Sec. 11. Program 998. The Board of Regents
 10 of the University of Nebraska is hereby authorized to
 11 continue the renovation of the Arts and Sciences Hall at
 12 the University of Nebraska at Omaha. There is hereby
 13 appropriated \$53,998 from the Nebraska Capital
 14 Construction Fund for FY1992-93 to continue planning for
 15 the facility through the design development phase.
 16 There is hereby appropriated \$1,423,001 from the
 17 Nebraska Capital Construction Fund for ~~FY1993-94~~
 18 FY1994-95 to complete planning and initiate renovation.
 19 There is hereby appropriated \$1,423,001 from the
 20 Nebraska Capital Construction Fund for ~~FY1994-95~~
 21 FY1995-96 to complete the second phase of renovation.

22 Sec. 10. That original Laws 1991, LB 760,
 23 sections 1 to 7, 10, and 11, are repealed."

Messrs. Dierks and Abboud asked unanimous consent to be excused
 until they return. No objections. So ordered.

Mr. Lamb requested a record vote on the Beutler amendment.

Voting in the affirmative, 13:

Beutler	Johnson, R.	Lynch	Schrock	Wehrbein
Crosby	Lamb	Pirsch	Warner	Wesely
Elmer	Landis	Rogers		

Voting in the negative, 23:

Ashford	Conway	Hillman	Morrissey	Schimek
Baack	Haberman	Johnson, L.	Nelson	Schmit
Bernard-	Hall	Kristensen	Rasmussen	Wickersham
Stevens	Hartnett	Lindsay	Robinson	Will
Bohlke	Hefner	Moore	Schellpeper	

Present and not voting, 9:

Byars	Chizek	Cudaback	Peterson	Withem
Chambers	Coordsen	Horgan	Robak	

Excused and not voting, 4:

Abboud Beyer Dierks Labedz

The Beutler amendment lost with 13 ayes, 23 nays, 9 present and not voting, and 4 excused and not voting.

Mr. Beutler moved to recommit LB 9 to the Appropriations Committee for further review.

Mr. Beutler withdrew his pending motion to recommit LB 9 to the Appropriations Committee.

Mr. Warner offered the following amendment:

AM74SS

- 1 1. On page 6, strike beginning with "one" on
- 2 line 7 through "forty-five" in line 9 and insert "two
- 3 million eight hundred six thousand two hundred seventy";
- 4 strike line 10 and insert "one million two hundred five
- 5 thousand nine-eight"; in line 11 strike "twenty-two"; in
- 6 line 13 strike "1998-99" and insert "1996-97"; in line
- 7 15 strike "one million nine hundred" and insert "two
- 8 million eight hundred six thousand two hundred seventy";
- 9 in line 16 strike "eighty-eight thousand four hundred
- 10 forty-five"; in line 19 strike "1998-99" and insert
- 11 "1996-97"; in line 23 strike "eight hundred fifty-five";
- 12 in line 24 strike "thousand five hundred twenty-two" and
- 13 insert "one million two hundred five thousand
- 14 ninety-eight".
- 15 2. On page 7, line 2, strike "1998-99" and
- 16 insert "1996-97".
- 17 3. On page 14, line 7; page 15, line 7; page
- 18 17, line 13; and page 18, line 5, strike "1999" and
- 19 insert "1997".

Mr. Lynch asked unanimous consent to be excused until he returns. No objections. So ordered.

The Warner amendment was adopted with 27 ayes, 0 nays, 17 present and not voting, and 5 excused and not voting.

Advanced to E & R for engrossment.

SELECT COMMITTEE REPORTS

Enrollment and Review**Correctly Engrossed**

The following bills were correctly engrossed: 2, 4, 15, and 19.

(Signed) Eric Will, Chairperson

RESOLUTIONS**LEGISLATIVE RESOLUTION 5. Introduced by Coordsen, 32.**

WHEREAS, William T. Apking played an active role in the Alexandria area as a mayor, banker, and entrepreneur; and

WHEREAS, Mr. Apking and his wife, Shari, a former Nebraska State Senator, gave selflessly of their time and talents not only to the Alexandria area, but to the entire State of Nebraska; and

WHEREAS, Mr. Apking exemplified community spirit in the Alexandria area, and his dedication to and presence in that community will be missed, but his memory will live on; and

WHEREAS, William T. Apking passed away on September 29, 1992.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

1. That the members of the Legislature express their deepest sympathy to the widow and family of William T. Apking.

2. That a copy of this resolution be presented to Mrs. Shari Apking and family.

Laid over.

LEGISLATIVE RESOLUTION 6. Introduced by LR 393 Task Force: Wesely, 26; Hall, 7; Bernard-Stevens, 42; Haberman, 44; Wehrbein, 2; Will, 8; Baack, 47; Schellpeper, 18; Moore, 24; Rasmussen, 20; Warner, 25; Ashford, 6.

WHEREAS, the LR 393 Medicaid Task Force requested that the Department of Social Services develop a managed care plan for medicaid services in Nebraska; and

WHEREAS, the Medicaid Task Force requested that the plan be prepared by January 1, 1993; and

WHEREAS, it is the intent of the LR 393 Medicaid Task Force that the Department of Social Services develop a managed care plan or plans for medicaid recipients including such contracts as deemed

appropriate by the department. Such managed care plan or plans should include both federal-mandated and federal-optional medical assistance services and should include controls to address overutilization of services. Any managed care plan shall be submitted to the Legislature at least thirty days prior to the effective date of a contract. The Department of Social Services shall report to the Legislature on an annual basis as to managed care plans operated or contracted for by the department. The report shall include information regarding costs savings, utilization, number of recipients, and management issues associated with the managed care program; and

WHEREAS, it is also the intent of the Legislature that the Department of Social Services plan include enhanced preadmission screening for applicants and recipients of nursing facility services whose care will be provided by the medical assistance program to insure that such services are medically necessary.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

1. That the Legislature supports the LR 393 Medicaid Task Force request for a managed care plan for medicaid services to be developed by the Department of Social Services.

Laid over.

ATTORNEY GENERAL'S OPINION

Opinion No. #92114

DATE: September 29, 1992

SUBJECT: Scope of the Governor's Special Session Call under Article IV, Section 8 of the Nebraska Constitution; LB 11 and the Municipal Infrastructure Redevelopment Fund

REQUESTED BY: Senator Stan Schellpeper
Nebraska State Legislature

WRITTEN BY: Don Stenberg, Attorney General
Dale A. Comer, Assistant Attorney General

LB 11, introduced in the Third Special Session of the Ninety-Second Nebraska Legislature, would amend Neb.Rev.Stat. § 77-2602 (1991 Supp.) so as to reduce the amount of cigarette tax revenues placed in the Municipal Infrastructure Redevelopment Fund

from 4.5 million dollars each fiscal year to 3 million dollars each fiscal year. Under LB 11, the tax revenues taken from the Municipal Infrastructure Redevelopment Fund would be placed in the State's General Fund. You have now requested our opinion as to whether LB 11 is within the scope of the call established by Governor Nelson's Proclamation of September 16, 1992, calling the Legislature into special session commencing on September 21, 1992. As discussed below, we believe that LB 11 is within the scope of the call.

Article IV, Section 8 of the Nebraska Constitution provides as follows:

The Governor may, on extraordinary occasions, convene the Legislature by proclamation, stating therein the purpose for which they are convened, and the Legislature shall enter upon no business except that for which they were called together.

We have discussed this constitutional provision in numerous previous opinions, and we have noted that the final portion of Article IV, Section 8 places an express limitation on the power of the Legislature to act during a special session. Opinion of the Attorney General No. 89069, November 9, 1989. That limitation was described in Arrow Club, Inc. v. Nebraska Liquor Control Commission, 177 Neb. 686, 689, 131 N.W.2d 134, 137 (1964):

It is well established that the Legislature while in special session can transact no business except that for which it was called together. The proclamation may state the purpose for which the Legislature is convened in broad, general terms or it may limit the consideration to a specified phase of a general subject. The Legislature is free to determine in what manner the purpose shall be accomplished, but it must confine itself to the matters submitted to it by the proclamation.

(citations omitted).

While the court in Arrow Club noted the express constitutional limitation on the power of the Legislature to act in a special session, it also stated:

While the Legislature must confine itself to the matters submitted, it need not follow the views of the governor or legislate in any particular way. Within the special business or designated subjects submitted, the legislature cannot be restricted or dictated to by the governor. It is a free agent, and the governor, under the guise of definition, cannot direct or control its action. The Legislature while in special session may enact legislation relating to, germane to, and having a natural connection with the purpose for which it was convened. . . . The presumption is always in favor of the constitutionality of legislation, and an act should be held to be within the call if it can be done by any reasonable construction.

Id. at 689-90, 131 N.W.2d at 137. We have also previously indicated that, in applying the principles surrounding legislative action and the scope of the call, ". . . the majority of courts deciding cases challenging legislation enacted at special legislative sessions as outside the scope of the call have adopted a liberal construction, upholding legislative acts if they can conceivably fall within the subjects mentioned within the call." Opinion of the Attorney General No. 86078, November 14, 1986. With these various legal propositions in mind, we will turn to the legislation and call at issue in your opinion request.

The initial portion of Governor Nelson's legislative call of September 16, 1992, provides that the Legislature is called into special session to consider enacting legislation: "1. To reduce appropriations approved by the 92nd Legislature, and to appropriate funds for certain deficit appropriations." We believe that LB 11 fits within this portion of the call.

Neb.Rev.Stat. § 77-2602 (1991 Supp.) provides, in pertinent part,

(1) Every person engaged in distributing or selling cigarettes at wholesale in this state shall pay to the Tax Commissioner of this state a special privilege tax. . . . Commencing July 1, 1989, and continuing until July 1, 2009, the State Treasurer shall place the equivalent of sixteen cents of such tax less four million five hundred thousand dollars each fiscal year of proceeds of such tax in the General Fund. . . . The State Treasurer shall distribute the remaining proceeds of such tax in the following order: . . .

(g) Seventh, beginning July 1, 1989, and continuing until July 1, 2009, the State Treasurer shall place in the Municipal Infrastructure Redevelopment Fund the sum of four million five hundred thousand dollars each fiscal year to carry out the Municipal Infrastructure Redevelopment Fund Act. The Legislature shall appropriate the sum of four million five hundred thousand dollars each year for fiscal year 1989-90 through fiscal year 2008-09.

Section 77-2602 was most recently part of LB 703, passed by the Legislature in 1991. The 1991 legislative session was the first session of the 92nd Nebraska Legislature. As a result, it appears to us that subsection (1) (g) of Section 77-2602 quoted above involves an appropriation "approved by the 92nd Legislature" as described in the Governor's call.

LB 11 would essentially re-enact Section 77-2602 including those portions of that section quoted above while reducing the amounts to be placed in the Municipal Infrastructure Redevelopment Fund each fiscal year from 4.5 million dollars to 3 million dollars. Therefore, we believe that the effect of that bill would be to reduce an appropriation approved by the 92nd Legislature in 1991. As such, the bill falls squarely within Section 1 of the Governor's call noted above.

Your opinion request letter appears to indicate that you have some concern that the alleged uncertainty with whether LB 11 fits within the Governor's call could adversely impact the effectiveness of Section 77-2602 in the future. In that regard, we would simply note that the Governor could amend the call to remove any uncertainty as to whether LB 11 is appropriate in this special session. Jaksha v. State, 222 Neb. 690, 385 N.W.2d 922 (1986). We would also note that our views as to whether LB 11 fits within the Governor's call for the special session go only to that issue. We do not in any way take a position on the substantive merits of LB 11 through this opinion.

Sincerely yours,
DON STENBERG

(Signed) Dale A. Comer
Assistant Attorney General

cc: Patrick J. O'Donnell
Clerk of the Legislature

SELECT FILE

LEGISLATIVE BILL 10. E & R amendment, AM5310, found in the Journal on page 99, was adopted.

Ms. Schimek withdrew her pending amendment, AM50SS, found in the Journal on page 99.

Ms. Schimek offered the following amendment:
AM56SS

(Amendments to AM5310)

- 1 1. On page 1, line 18, strike ", except that
- 2 the", show as stricken, and insert "Any member
- 3 entitled to a credit of seventy-five percent of resident
- 4 tuition charges immediately prior to July 1, 1993, shall
- 5 continue to be entitled to the credit at such rate for a
- 6 period of ten years from the date of the member's
- 7 initial membership so long as the member maintains
- 8 satisfactory performance with the guard and pursues his
- 9 or her course of study in such institution in a manner
- 10 which satisfies the normal requirements of the
- 11 institution. The"; and in line 19 strike "such" and
- 12 show as stricken.

Mrs. Nelson, Messrs. Kristensen, Cudaback, and Chambers asked unanimous consent to be excused until they return. No objections. So ordered.

Ms. Schimek asked unanimous consent to pass over LB 10. No objections. So ordered.

LEGISLATIVE BILL 21. Considered.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 3. Messrs. Moore and Ashford reoffered their amendment, AM09SS, found in the Journal on page 125.

Mrs. Crosby asked unanimous consent to be excused until she returns. No objections. So ordered.

MR. WARNER PRESIDING

Mr. Lindsay asked unanimous consent to be excused until he returns. No objections. So ordered.

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 26 ayes, 0 nays, and 23 not voting.

The Moore-Ashford amendment was adopted with 26 ayes, 1 nay, 14 present and not voting, and 8 excused and not voting.

Mr. Withem offered the following amendment:
AM70SS

- 1 1. Insert the following new section:
- 2 "Sec. 2. The Director of Social Services and
- 3 the Commissioner of Education shall appoint a joint
- 4 commission on or before October 15, 1992. The purpose
- 5 of the commission shall be to examine the procedure for
- 6 funding the education of wards of the state and wards of
- 7 the court.
- 8 The commission shall identify and define all
- 9 potential placements for wards, examine the effect of
- 10 such placements on the education of wards, determine the
- 11 entity responsible for providing for the education of
- 12 wards, study the method of identifying special
- 13 educational needs of wards, examine the methods of
- 14 reimbursement under the Special Education Act and of
- 15 payment of state aid relative to wards, and study any
- 16 other related matters. The commission shall report its
- 17 findings, conclusions, and recommendations to the
- 18 Legislature on or before January 15, 1993."

19 2. Renumber the remaining sections
20 accordingly.

SPEAKER BAACK PRESIDING

Mr. Lynch moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 28 ayes, 0 nays, and 21 not voting.

The Withem amendment was adopted with 28 ayes, 0 nays, 13 present and not voting, and 8 excused and not voting.

Advanced to E & R for engrossment.

Mr. Lynch asked unanimous consent to be excused. No objections. So ordered.

MOTION - Return LB 11 to Select File

Mr. Moore moved to return LB 11 to Select File for the following specific amendment:

AM80SS

- 1 1. On page 2, line 18, after the period
- 2 insert "Commencing July 1, 1993, and continuing until
- 3 July 1, 1994, the State Treasurer shall place the
- 4 equivalent of sixteen cents of such tax less three
- 5 million seven hundred fifty thousand dollars in the
- 6 General Fund."; and in line 19 strike "1989", show as
- 7 stricken, and insert "1994".
- 8 2. On page 6, line 14, after "beginning"
- 9 insert "July 1, 1993, and continuing until January 1,
- 10 1994, the State Treasurer shall place in the Municipal
- 11 Infrastructure Redevelopment Fund the sum of two million
- 12 two hundred fifty thousand dollars to carry out the
- 13 Municipal Infrastructure Redevelopment Fund Act.
- 14 Beginning January 1, 1994, and continuing until July 1,
- 15 1994, the State Treasurer shall place in the fund the
- 16 sum of one million five hundred thousand dollars to
- 17 carry out the act. Beginning" and strike "1989", show
- 18 as stricken, and insert "1994"; in line 16 strike
- 19 "Municipal Infrastructure Redevelopment Fund", show as
- 20 stricken, and insert "fund"; in line 19 strike
- 21 "Municipal Infrastructure Redevelopment Fund Act", show
- 1 as stricken, and insert "act. The Legislature shall
- 2 appropriate the sum of three million seven hundred fifty

- 3 thousand dollars for fiscal year 1993-94"; and in line
 4 22, strike "1989-90", show as stricken, and insert
 5 "1994-95".
 6 3. Strike AM77SS.

The Moore motion to return prevailed with 28 ayes, 0 nays, 12 present and not voting, and 9 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 11. The Moore specific amendment, AM80SS, found in this day's Journal, was adopted with 26 ayes, 0 nays, 14 present and not voting, and 9 excused and not voting.

Advanced to E & R for engrossment.

LEGISLATIVE BILL 29. E & R amendment, AM5312, found in this day's Journal, was adopted.

Messrs. Wesely and Chizek offered the following amendment:
 AM79SS

(Amendments to Standing Committee amendments, AM33SS)

- 1 1. On page 1, line 6, after the second period
 2 insert "(1)"; and in line 20 after the first period
 3 insert:
 4 "(2) Notwithstanding sections 85-121 and
 5 85-121.03, if the Coordinating Commission for
 6 Postsecondary Education determines that it is more
 7 appropriate for the Nebraska College of Technical
 8 Agriculture at Curtis to be closed, the commission may
 9 incorporate such change to the role and mission of the
 10 University of Nebraska in its role and mission portion
 11 of the comprehensive statewide plan, program approval,
 12 and budget recommendations to the Legislature and the
 13 Governor prescribed in the Coordinating Commission for
 14 Postsecondary Education Act. If the commission makes
 15 such change to the role and mission, it shall make the
 16 change before July 1, 1993, and the change shall not be
 17 effective until such date.".

Mr. Withem offered the following amendment to the pending Wesely-Chizek amendment:

FA15S3

Amend the Wesely amendment to LB 29
 Strike last sentence in AM79SS lines 14-17

Messrs. Schmit and Landis asked unanimous consent to be excused until they return. No objections. So ordered.

The Withem amendment was adopted with 27 ayes, 0 nays, 12 present and not voting, and 10 excused and not voting.

Messrs. Wehrbein and Ashford asked unanimous consent to be excused. No objections. So ordered.

Messrs. Wesely and Chizek withdrew their pending amendment, AM79SS.

MR. CONWAY PRESIDING

Mr. R. Johnson requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 31 ayes, 0 nays, 7 present and not voting, and 11 excused and not voting.

MOTION - Return LB 3 to Select File

Mr. Withem moved to return LB 3 to Select File for the following specific amendment:

FA16S3

Add the emergency clause.

The Withem motion to return prevailed with 28 ayes, 0 nays, 10 present and not voting, and 11 excused and not voting.

SELECT FILE

LEGISLATIVE BILL 3. The Withem specific amendment, FA16S3, found in this day's Journal, was adopted with 28 ayes, 0 nays, 10 present and not voting, and 11 excused and not voting.

Advanced to E & R for engrossment.

Messrs. R. Johnson and Withem asked unanimous consent to be excused until they return. No objections. So ordered.

LEGISLATIVE BILL 10. The pending Schimek amendment, AM56SS, found in this day's Journal, was renewed.

Ms. Schimek, Mrs. Bohlke, and Mr. Landis offered the following amendment to the pending Schimek amendment:

AM81SS

(Amendments to AM56SS)

- 1 1. On page 1, strike beginning with
- 2 "immediately" in line 4 through "membership" in line 7
- 3 and insert "and enrolled in the tuition credit program
- 4 as of October 1, 1992, shall continue to be entitled to
- 5 the credit at such rate until completion of the
- 6 educational program in which he or she is enrolled on
- 7 October 1, 1992".

Mr. Robinson moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Ms. Schimek moved for a call of the house. The motion prevailed with 27 ayes, 0 nays, and 22 not voting.

Ms. Schimek requested a roll call vote on the Schimek-Bohlke-Landis amendment.

Voting in the affirmative, 23:

Bernard-	Coordsen	Haberman	Rasmussen	Warner
Stevens	Crosby	Hall	Robinson	Wesely
Bohlke	Cudaback	Hefner	Schellpeper	Wickersham
Chizek	Dierks	Landis	Schimek	Will
Conway	Elmer	Morrissey	Schrock	

Voting in the negative, 8:

Baack	Johnson, L.	Lamb	Pirsch	Robak
Hillman	Kristensen	Moore		

Present and not voting, 6:

Beutler	Hartnett	Horgan	Peterson	Rogers
Byars				

Excused and not voting, 12:

Abboud	Chambers	Lindsay	Nelson	Wehrbein
Ashford	Johnson, R.	Lynch	Schmit	Withem
Beyer	Labeledz			

The Schimek-Bohlke-Landis amendment lost with 23 ayes, 8 nays, 6 present and not voting, and 12 excused and not voting.

The Chair declared the call raised.

Ms. Schimek withdrew her pending amendment, AM56SS.

Messrs. Chizek and Robinson asked unanimous consent to be excused until they return. No objections. So ordered.

SPEAKER BAACK PRESIDING

Mr. Conway requested a machine vote on the advancement of the bill.

Mr. Moore moved for a call of the house. The motion prevailed with 21 ayes, 0 nays, and 28 not voting.

Mr. Moore requested a roll call vote on the advancement of the bill.

Voting in the affirmative, 24:

Baack	Cudaback	Hillman	Landis	Rogers
Bernard-	Elmer	Horgan	Moore	Schellpeper
Stevens	Hall	Johnson, L.	Peterson	Warner
Beutler	Hartnett	Kristensen	Pirsch	Wesely
Bohlke	Hefner	Lamb	Rasmussen	Will

Voting in the negative, 11:

Byars	Crosby	Haberman	Robak	Schrock
Conway	Dierks	Morrissey	Schimek	Wickersham
Coorsen				

Excused and not voting, 14:

Abboud	Chambers	Labadz	Nelson	Wehrbein
Ashford	Chizek	Lindsay	Robinson	Withem
Beyer	Johnson, R.	Lynch	Schmit	

Failed to advance to E & R for engrossment with 24 ayes, 11 nays, and 14 excused and not voting.

The Chair declared the call raised.

SELECT COMMITTEE REPORTS
Enrollment and Review

Correctly Engrossed

The following bills were correctly engrossed: 1, 13, 14, 20, and 21.

Enrollment and Review Change to LB 1

The following changes, required to be reported for publication in the Journal, have been made:

ER7189

1. On page 1, line 3; and page 213, line 25, "14," has been struck.
2. On page 187, line 20, "(11)" has been struck, shown as stricken, and "(10)" inserted.

(Signed) Eric Will, Chairperson

RESOLUTION

LEGISLATIVE RESOLUTION 7. Introduced by Withem, 14.

WHEREAS, on September 14, 1992, cancer claimed the life of Professor Donald W. Miller who had dedicated thirty-seven years of his life to mathematics education as a member of the Department of Mathematics and Statistics at the University of Nebraska-Lincoln. Professor Miller, a native of Wisconsin, received his Ph.D. from the University of Wisconsin prior to joining the UNL faculty; and

WHEREAS, Professor Miller enjoyed a long and distinguished career as a Professor of Mathematics. He was recognized for three decades of outstanding teaching of college students when he was awarded the UNL Distinguished Undergraduate Teaching Award in 1988; and

WHEREAS, Professor Miller was involved in activities that enriched the careers of Nebraska mathematics teachers as a principal investigator for the National Science Foundation funded Nebraska Mathematics Scholars program and the Western Mathematics Scholars program. He also created the Junior Mathematics Prognosis Testing program (JUMP) which the Nebraska Legislature funded. JUMP provides high school juniors with appropriate advice concerning their mathematics preparation for college. For these activities, Professor Miller was recognized by UNL with its Distinguished Educational Service Award (1989), and by the Nebraska Association of Teachers of Mathematics (1991) who named their Distinguished Service Award after Professor Miller; and

WHEREAS, Professor Miller was also instrumental in establishing the Nebraska mathematics and Science Coalition, and in securing for the State of Nebraska a \$4.67 million grant from the National Science Foundation for the Nebraska Statewide Systemic Initiative in Mathematics and Science Education; and

WHEREAS, in further recognition of Professor Miller's contributions to education, the Lincoln Downtown Rotary Club has established the annual Donald W. Miller award to honor an outstanding mathematics teacher; and

WHEREAS, the loss of Professor Miller's leadership will be felt by Nebraska, but his contributions will live on through the work of JUMP, the Nebraska Mathematics and Science Coalition, and the Nebraska Statewide Systemic Initiative and awards which are presented in his name.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

1. That the Legislature expresses its deepest sympathy to Professor Miller's widow, Mrs. Charlotte Miller, his family, and the University of Nebraska-Lincoln, Department of Mathematics and Statistics.

2. That a copy of this resolution be sent to Mrs. Charlotte Miller and family and the University of Nebraska-Lincoln, Department of Mathematics and Statistics.

Laid over.

WITHDRAW - Amendment to LB 26

Mr. Schmit withdrew his pending amendment, AM41SS, found in the Journal on page 96, to LB 26.

SELECT FILE

LEGISLATIVE BILL 10. The Speaker announced that he was changing his agenda by allowing LB 10 to be considered on Select File by the Legislature.

MR. CONWAY PRESIDING

Ms. Schimek offered the following amendment:
AM82SS

(Amendments to AM5310)

- 1 1. On page 1, line 18, strike ", except that
- 2 the ", show as stricken, and insert "Any member
- 3 entitled to a credit of seventy-five percent of resident

4 tuition charges and enrolled in the tuition credit
5 program as of October 1, 1992, shall continue to be
6 entitled to the credit at such rate until completion of
7 the educational program in which he or she is enrolled
8 on October 1, 1992, so long as the member maintains
9 satisfactory performance with the guard and pursues his
10 or her course of study in such institution in a manner
11 which satisfies the normal requirements of the
12 institution. The"; and in line 19 strike "such" and
13 show as stricken.

SPEAKER BAACK PRESIDING

Mr. Morrissey moved the previous question. The question is, "Shall the debate now close?" The motion prevailed with 25 ayes, 0 nays, and 24 not voting.

Ms. Schimek moved for a call of the house. The motion prevailed with 19 ayes, 0 nays, and 30 not voting.

The Schimek amendment was adopted with 30 ayes, 2 nays, 3 present and not voting, and 14 excused and not voting.

Mrs. Robak requested a machine vote on the advancement of the bill.

Advanced to E & R for engrossment with 32 ayes, 1 nay, 2 present and not voting, and 14 excused and not voting.

The Chair declared the call raised.

EASE

The Legislature was at ease from 7:50 p.m. until 8:42 p.m.

SELECT COMMITTEE REPORTS **Enrollment and Review**

Correctly Engrossed

The following bills were correctly engrossed: 3, 9, 10, 11, 26, and 29.

Enrollment and Review Change to LB 3

The following changes, required to be reported for publication in the Journal, have been made:

ER7190

1. In AM09SS, on page 4, line 15, "to this section" has been added after "made".

2. On page 1, line 3, "eliminate" has been struck and "change" inserted; and in lines 5 and 6 "provide an operative date" has been struck and "create a commission and provide duties" has been inserted.

Enrollment and Review Change to LB 9

The following changes, required to be reported for publication in the Journal, have been made:

ER7192

1. In the E & R amendment, AM5308, on page 1, line 2, "rename a fund" has been struck and "create and rename funds" inserted.

Enrollment and Review Change to LB 29

The following changes, required to be reported for publication in the Journal, have been made:

ER7191

1. In the E & R amendment, AM5312, on page 1, line 3, "81-121.05" has been struck and "85-121.05" inserted.

(Signed) Eric Will, Chairperson

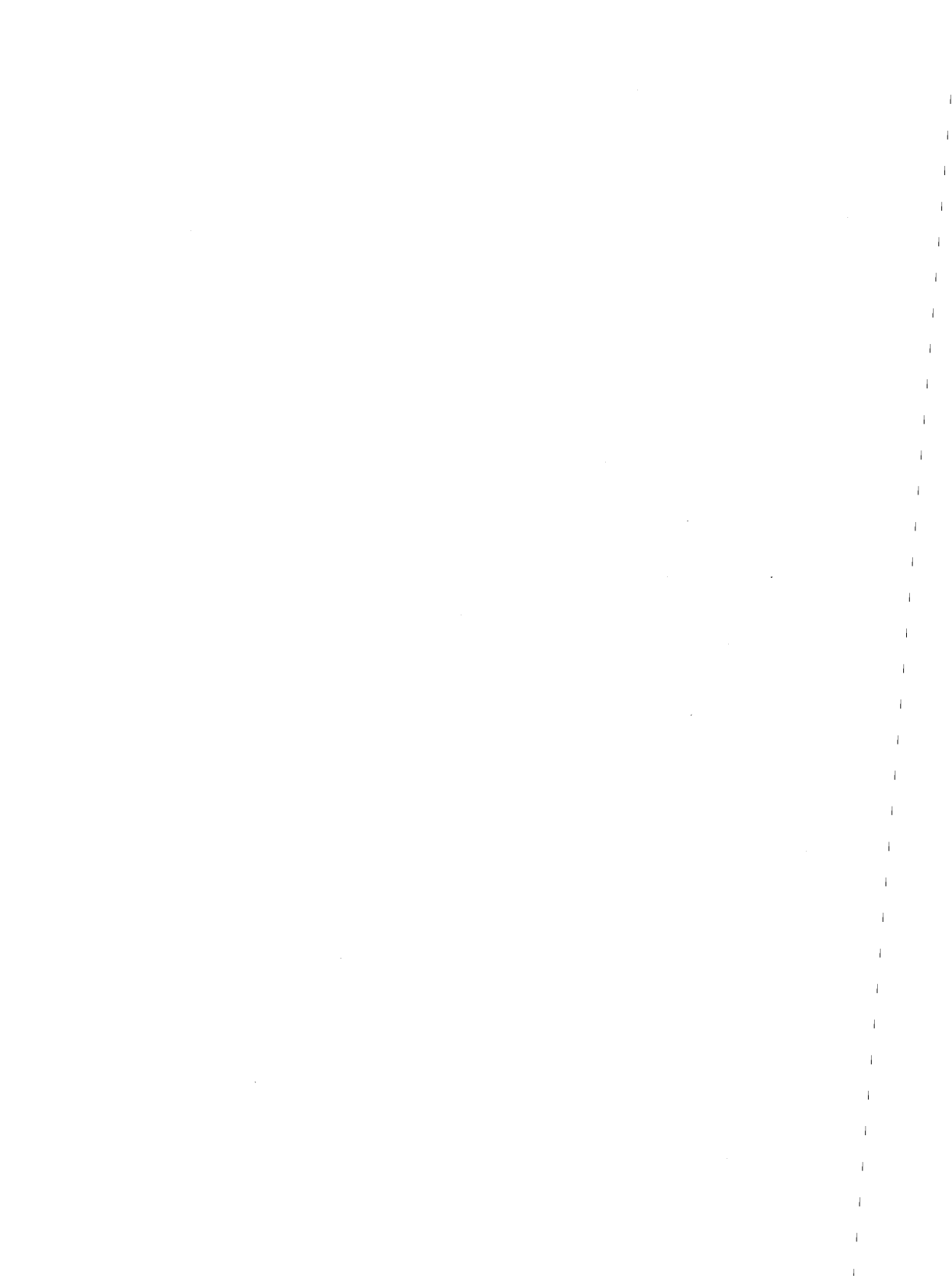
UNANIMOUS CONSENT - Add Cointroducer

Mr. Dierks asked unanimous consent to have his name added as cointroducer to LR 6. No objections. So ordered.

ADJOURNMENT

At 8:43 p.m., on a motion by Mr. Bernard-Stevens, the Legislature adjourned until 9:00 a.m., Thursday, October 1, 1992.

Patrick J. O'Donnell
Clerk of the Legislature



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NINTH DAY - OCTOBER 1, 1992

LEGISLATIVE JOURNAL

NINTH DAY - OCTOBER 1, 1992

LEGISLATIVE JOURNAL

**NINETY-SECOND LEGISLATURE
THIRD SPECIAL SESSION**

NINTH DAY

Legislative Chamber, Lincoln, Nebraska
Thursday, October 1, 1992

Pursuant to adjournment, the Legislature met at 9:02 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Senator Scott Moore.

ROLL CALL

The roll was called and all members were present except Messrs. Ashford, Beyer, Chizek, Hall, Hartnett, Horgan, Landis, Lindsay, Morrissey, Warner, Wehrbein, Withem, Mmes. Labedz, Pirsch, Rasmussen, and Robak who were excused; and Messrs. Abboud, Chambers, R. Johnson, and Wesely who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the eighth day was approved.

RESOLUTIONS

LEGISLATIVE RESOLUTION 3. Read. Considered.

Mr. Conway renewed his pending amendment, AM71SS, found in the Journal on page 138.

The Conway amendment was adopted with 25 ayes, 0 nays, 4 present and not voting, and 20 excused and not voting.

LR 3 was adopted with 25 ayes, 0 nays, and 24 not voting.

LEGISLATIVE RESOLUTION 5. Read. Considered.

LR 5 was adopted with 26 ayes, 0 nays, and 23 not voting.

LEGISLATIVE RESOLUTION 8. Introduced by Crosby, 29; Bernard-Stevens, 42; Hillman, 48.

WHEREAS, the Legislature recognizes the challenges and difficulties faced by pregnant women who meet the requirements for aid to dependent children; and

WHEREAS, the Legislature intends that the optional aid to dependent children money provided for an unborn child during the mother's last three months of pregnancy be used to assist in creating a safe, healthy, and less stressful environment for the mother and her unborn child; and

WHEREAS, Nebraska is experiencing a budget gap requiring adjustments at all levels of state government. However, the Legislature has agreed to fund optional aid to dependent children during the last three months of an eligible woman's pregnancy until June 30, 1995, and after such date the original program will resume and, as soon as it is medically determined that pregnancy exists, application may be made for eligibility in the state-funded optional program.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

1. That the Executive Board of the Legislative Council designate or create a select interim committee, composed of Senators Crosby, Bernard-Stevens, Hillman, Rasmussen, Lindsay, and Chambers, to define and identify what the outcomes of the optional aid to dependent children payments should be.

2. The select committee shall analyze the present system to determine if the system allows recipients of the optional aid to dependent children to recognize desired outcomes and, if not, develop strategies to attain desired outcomes.

3. The select committee shall develop a means of monitoring and assessment as to whether or not recipients of the optional aid to dependent children are achieving the desired outcomes.

Referred to the Executive Board.

ADJOURNMENT

At 9:35 a.m., on a motion by Mr. Cudaback, the Legislature adjourned until 9:00 a.m., Friday, October 2, 1992.

Patrick J. O'Donnell
Clerk of the Legislature

TENTH DAY - OCTOBER 2, 1992

LEGISLATIVE JOURNAL

**NINETY-SECOND LEGISLATURE
THIRD SPECIAL SESSION**

TENTH DAY

Legislative Chamber, Lincoln, Nebraska
Friday, October 2, 1992

Pursuant to adjournment, the Legislature met at 9:02 a.m., Speaker Baack presiding.

PRAYER

The prayer was offered by Rev. Harland Johnson, Chaplain Coordinator.

ROLL CALL

The roll was called and all members were present except Mrs. Labedz who was excused; and Messrs. Bernard-Stevens, Beutler, Chambers, Conway, Haberman, Hall, Hartnett, R. Johnson, Kristensen, Landis, Morrissey, Warner, Will, Mmes. Nelson, and Rasmussen who were excused until they arrive.

CORRECTIONS FOR THE JOURNAL

The Journal for the ninth day was approved.

PRESIDENT MOUL PRESIDING

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following resolutions: LR 2, LR 3, and LR 5.

MOTION - Suspend Rules

Mr. Lynch moved to suspend the rules, Rule 6, Section 7(b) to permit consideration of the bills on Final Reading today.

The Lynch motion prevailed with 30 ayes, 0 nays, 3 present and not voting, and 16 excused and not voting.

MOTION - Return LB 1 to Select File

Mr. Moore moved to return LB 1 to Select File for the following specific amendment:

FA17S3

Strike the enacting clause.

Mr. Moore withdrew his motion to return.

UNANIMOUS CONSENT - Member Excused

Mr. Warner asked unanimous consent to be excused until he returns. No objections. So ordered.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 1. With Emergency.

A BILL FOR AN ACT relating to appropriations; to amend Laws 1991, LB 843, sections 9 to 11, 13, 17, 20, 22, 23, 25, 26, 30, 31, 33 to 35, 37, 39, 40, 47, 49, 50, 54, 55, 63, 65 to 69, 74 to 77, 79, 82, 85, 90, and 93; Laws 1991, LB 847, sections 20 and 21; Laws 1992, LB 447A, section 3; Laws 1992, LB 1022, sections 50, 53, 55 to 70, 72, 73, 76, 77, and 82; and Laws 1992, LB 1063A, section 2; to change certain appropriations as prescribed; to appropriate funds; to state intent; to repeal the original sections, and also Laws 1992, LB 1022, section 83; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 46:

Abboud	Bernard-	Beyer	Chizek	Crosby
Ashford	Stevens	Bohlke	Conway	Cudaback
Baack	Beutler	Byars	Coordsen	Dierks

Elmer	Johnson, L.	Moore	Robak	Schrock
Haberman	Johnson, R.	Morrissey	Robinson	Wehrbein
Hall	Kristensen	Nelson	Rogers	Wesely
Hartnett	Lamb	Peterson	Schellpeper	Wickersham
Hefner	Landis	Pirsch	Schimek	Will
Hillman	Lindsay	Rasmussen	Schmit	Withem
Horgan	Lynch			

Voting in the negative, 0.

Excused and not voting, 3:

Chambers Labedz Warner

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 2. With Emergency.

A BILL FOR AN ACT relating to funds; to amend sections 83-145 and 83-150, Reissue Revised Statutes of Nebraska, 1943, and section 9-420, Uniform Commercial Code; to rename a fund; to authorize and provide for transfers of funds; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 45:

Abboud	Coorsden	Hillman	Moore	Schellpeper
Ashford	Crosby	Horgan	Morrissey	Schimek
Baack	Cudaback	Johnson, L.	Nelson	Schmit
Bernard-	Dierks	Johnson, R.	Peterson	Schrock
Stevens	Elmer	Kristensen	Pirsch	Wehrbein
Beutler	Haberman	Lamb	Rasmussen	Wesely
Bohlke	Hall	Landis	Robak	Wickersham
Byars	Hartnett	Lindsay	Robinson	Will
Chizek	Hefner	Lynch	Rogers	Withem
Conway				

Voting in the negative, 0.

Present and not voting, 1:

Beyer

Excused and not voting, 3:

Chambers Labeledz Warner

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 3. With Emergency.

A BILL FOR AN ACT relating to schools and school districts; to amend section 79-445, Revised Statutes Supplement, 1992; to change reimbursement provisions for education costs of wards of the state or a court; to create a commission and provide duties; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 41:

Abboud	Chizek	Hartnett	Lindsay	Schellpeper
Ashford	Conway	Hefner	Lynch	Schimek
Baack	Coordsen	Horgan	Moore	Schrock
Bernard-	Crosby	Johnson, L.	Nelson	Wehrbein
Stevens	Cudaback	Johnson, R.	Pirsch	Wesely
Beutler	Dierks	Kristensen	Rasmussen	Wickersham
Beyer	Elmer	Lamb	Robak	Will
Bohlke	Haberman	Landis	Robinson	Withem
Byars	Hall			

Voting in the negative, 3:

Morrissey Rogers Schmit

Present and not voting, 2:

Hillman Peterson

Excused and not voting, 3:

Chambers Labedz Warner

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 4. With Emergency.

A BILL FOR AN ACT relating to persons with developmental disabilities; to amend section 83-1216, Revised Statutes Supplement, 1992; to change dates related to the Developmental Disabilities Services Act; to state intent; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 33:

Abboud	Byars	Hartnett	Lamb	Schrock
Ashford	Conway	Hefner	Landis	Wehrbein
Baack	Coordsen	Hillman	Lindsay	Wesely
Bernard-	Cudaback	Horgan	Moore	Wickersham
Stevens	Dierks	Johnson, L.	Pirsch	Will
Beutler	Elmer	Johnson, R.	Robinson	Withem
Beyer	Haberman	Kristensen	Schimek	

Voting in the negative, 11:

Bohlke	Hall	Nelson	Robak	Schellpeper
Chizek	Morrissey	Rasmussen	Rogers	Schmit
Crosby				

Present and not voting, 2:

Lynch Peterson

Excused and not voting, 3:

Chambers Labedz Warner

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 9. With Emergency.

A BILL FOR AN ACT relating to state colleges and universities; to amend sections 85-1,113 and 85-1,114, Reissue Revised Statutes of Nebraska, 1943, and sections 77-2602 and 85-122, Revised Statutes Supplement, 1992; to change the distribution of cigarette tax proceeds; to create and rename funds; to change and provide for capital construction projects; to authorize contracts; to require reports; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 45:

Abboud	Coordsen	Hillman	Moore	Schellpeper
Ashford	Crosby	Horgan	Morrissey	Schimek
Baack	Cudaback	Johnson, L.	Nelson	Schmit
Bernard-	Dierks	Johnson, R.	Peterson	Schrock
Stevens	Elmer	Kristensen	Pirsch	Wehrbein
Beyer	Haberman	Lamb	Rasmussen	Wesely
Bohlke	Hall	Landis	Robak	Wickersham
Byars	Hartnett	Lindsay	Robinson	Will
Chizek	Hefner	Lynch	Rogers	Withem
Conway				

Voting in the negative, 1:

Beutler

Excused and not voting, 3:

Chambers Labedz Warner

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 10.

A BILL FOR AN ACT relating to the Nebraska National Guard; to amend section 85-505, Revised Statutes Supplement, 1992; to change tuition assistance provisions as prescribed; to provide an operative date; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 41:

Abboud	Chizek	Hefner	Lynch	Rogers
Ashford	Conway	Hillman	Moore	Schellpeper
Baack	Coordsen	Horgan	Morrissey	Schimek
Bernard-	Crosby	Johnson, L.	Nelson	Wehrbein
Stevens	Dierks	Kristensen	Peterson	Wesely
Beutler	Elmer	Lamb	Pirsch	Wickersham
Beyer	Haberman	Landis	Rasmussen	Will
Bohlke	Hall	Lindsay	Robinson	Withem
Byars	Hartnett			

Voting in the negative, 3:

Chambers Robak Schmit

Present and not voting, 3:

Cudaback Johnson, R. Schrock

Excused and not voting, 2:

Labeledz Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 11 to Select File

Mr. Schellpeper moved to return LB 11 to Select File for the following specific amendment:

FA18S3

Page 8, Line 15

Move to change 1993 date to 1995.

Mr. Schellpeper withdrew his motion to return.

Mr. Moore moved to return LB 11 to Select File for the following specific amendment:

FA19S3

Strike the enacting clause.

Mr. Moore withdrew his motion to return.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 11.

A BILL FOR AN ACT relating to cigarette tax; to amend section 77-2602, Revised Statutes Supplement, 1992; to change the amount of proceeds distributed to the Municipal Infrastructure Redevelopment Fund; to harmonize provisions; to provide an operative date; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 26:

Ashford	Chizek	Johnson, L.	Moore	Schimek
Baack	Dierks	Johnson, R.	Nelson	Wehrbein
Bernard-	Elmer	Lamb	Peterson	Wesely
Stevens	Hall	Lindsay	Pirsch	Wickersham
Beutler	Hillman	Lynch	Rasmussen	Will
Bohlke	Horgan			

Voting in the negative, 19:

Abboud	Coordsen	Hartnett	Morrissey	Schellpeper
Beyer	Crosby	Hefner	Robak	Schmit
Byars	Cudaback	Kristensen	Robinson	Schrock
Conway	Haberman	Landis	Rogers	

Present and not voting, 2:

Chambers Withem

Excused and not voting, 2:

Labedz Warner

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 12. With Emergency.

A BILL FOR AN ACT relating to appropriations; to appropriate funds for the expenses incurred during the Ninety-second Legislature, Third Special Session, 1992; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 47:

Abboud	Chizek	Hefner	Moore	Schellpeper
Ashford	Conway	Hillman	Morrissey	Schimek
Baack	Coordsen	Horgan	Nelson	Schmit
Bernard-	Crosby	Johnson, L.	Peterson	Schrock
Stevens	Cudaback	Johnson, R.	Pirsch	Wehrbein
Beutler	Dierks	Kristensen	Rasmussen	Wesely
Beyer	Elmer	Lamb	Robak	Wickersham
Bohlke	Haberman	Landis	Robinson	Will
Byars	Hall	Lindsay	Rogers	Withem
Chambers	Hartnett	Lynch		

Voting in the negative, 0.

Excused and not voting, 2:

Labedz Warner

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 13. With Emergency.

A BILL FOR AN ACT relating to parole and pardons; to amend sections 83-188, 83-191, 83-192, 83-1,100, 83-1,113, 83-1,127, and 83-1,135, Reissue Revised Statutes of Nebraska, 1943; to change

provisions relating to the powers and duties of the Board of Parole, the Board of Pardons, the Office of Parole Administration, and the Department of Correctional Services; to provide for payment of salaries; to provide for transfer of certain items as prescribed; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 44:

Abboud	Chizek	Hillman	Moore	Schellpeper
Ashford	Conway	Horgan	Morrissey	Schimek
Baack	Coordsen	Johnson, L.	Nelson	Schmit
Bernard-	Cudaback	Johnson, R.	Peterson	Schrock
Stevens	Elmer	Kristensen	Pirsch	Wehrbein
Beutler	Haberman	Lamb	Rasmussen	Wesely
Beyer	Hall	Landis	Robak	Wickersham
Bohlke	Hartnett	Lindsay	Robinson	Will
Byars	Hefner	Lynch	Rogers	Withem

Voting in the negative, 2:

Chambers Crosby

Present and not voting, 1:

Dierks

Excused and not voting, 2:

Labeledz Warner

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 14. With Emergency.

A BILL FOR AN ACT relating to state government; to amend sections 9-807, 48-197, 49-14, 121, 81-8, 106, 81-1108, 81-1113, 81-1301, 81-1302, 81-1303, 81-1305, 81-1306, 81-1307, 81-1311, 81-1312, 81-1318, 81-1318.01, 81-1318.02, 81-1329, 81-1334, 81-1353, 81-1357,

81-1371, 81-1374, 81-1376, 81-1424, 84-1001, and 84-1511, Reissue Revised Statutes of Nebraska, 1943, and sections 49-617, 81-8,220, 81-8,239.01, 81-1373, 84-1602, 84-1603, 84-1605, and 84-1606, Revised Statutes Supplement, 1992; to eliminate the Department of Personnel and create the personnel division of the Department of Administrative Services; to eliminate references to the State Personnel Office; to transfer powers and duties; to transfer the Division of Employee Relations to the Department of Administrative Services; to create the risk management and state claims division of the Department of Administrative Services; to authorize appointment of a secretary for the State Claims Board; to transfer administration of risk management and claims against the state to the department; to define and redefine terms; to harmonize provisions; to repeal the original sections; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?' "

Voting in the affirmative, 45:

Abboud	Coordsen	Horgan	Morrissey	Schimek
Ashford	Cudaback	Johnson, L.	Nelson	Schmit
Baack	Dierks	Johnson, R.	Peterson	Schrock
Bernard-	Elmer	Kristensen	Pirsch	Warner
Stevens	Haberman	Lamb	Rasmussen	Wehrbein
Beutler	Hall	Landis	Robak	Wesely
Beyer	Hartnett	Lindsay	Robinson	Wickersham
Bohlke	Hefner	Lynch	Rogers	Will
Chizek	Hillman	Moore	Schellpeper	Withem
Conway				

Voting in the negative, 2:

Chambers Crosby

Present and not voting, 1:

Byars

Excused and not voting, 1:

Labedz

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 15.

A BILL FOR AN ACT relating to the Special Education Act; to amend section 79-3333, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to state reimbursement for minor building modifications; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 44:

Abboud	Conway	Hillman	Morrissey	Schimek
Ashford	Coordsen	Horgan	Nelson	Schmit
Baack	Crosby	Johnson, L.	Peterson	Schrock
Bernard-	Cudaback	Johnson, R.	Pirsch	Warner
Stevens	Dierks	Kristensen	Rasmussen	Wehrbein
Beutler	Elmer	Lamb	Robak	Wesely
Beyer	Haberman	Landis	Robinson	Wickersham
Bohlke	Hall	Lindsay	Rogers	Will
Chizek	Hefner	Moore	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 4:

Byars	Chambers	Hartnett	Lynch
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Excused and not voting, 1:

Labeledz

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

LEGISLATIVE BILL 19. With Emergency.

A BILL FOR AN ACT relating to schools and school districts; to amend section 79-1103.05, Revised Statutes Supplement, 1992; to change provisions relating to payment of tuition for students attending

high school outside the state; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 44:

Abboud	Conway	Hefner	Moore	Schimek
Ashford	Coordsen	Hillman	Morrissey	Schmit
Baack	Crosby	Horgan	Nelson	Schrock
Bernard-	Cudaback	Johnson, L.	Peterson	Warner
Stevens	Dierks	Johnson, R.	Pirsch	Wehrbein
Beutler	Elmer	Kristensen	Rasmussen	Wesely
Beyer	Haberman	Lamb	Robinson	Wickersham
Bohlke	Hall	Landis	Rogers	Will
Chizek	Hartnett	Lindsay	Schellpeper	Withem

Voting in the negative, 0.

Present and not voting, 4:

Byars	Chambers	Lynch	Robak
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Excused and not voting, 1:

Labadz

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 20. With Emergency.

A BILL FOR AN ACT relating to infants; to amend section 43-504, Reissue Revised Statutes of Nebraska, 1943; to change provisions relating to aid to dependent children payments as prescribed; to repeal the original section; and to declare an emergency.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 43:

Abboud	Conway	Hillman	Moore	Schimek
Baack	Coordsen	Horgan	Morrissey	Schrock
Bernard-	Cudaback	Johnson, L.	Nelson	Warner
Stevens	Dierks	Johnson, R.	Peterson	Wehrbein
Beutler	Elmer	Kristensen	Pirsch	Wesely
Beyer	Haberman	Lamb	Rasmussen	Wickersham
Bohlke	Hall	Landis	Robinson	Will
Byars	Hartnett	Lindsay	Rogers	Withem
Chizek	Hefner	Lynch	Schellpeper	

Voting in the negative, 4:

Chambers	Crosby	Robak	Schmit
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Present and not voting, 1:

Ashford

Excused and not voting, 1:

Labadz

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

LEGISLATIVE BILL 21.

A BILL FOR AN ACT relating to the Youth Leadership Academy Act; to amend sections 79-3602 to 79-3604, Revised Statutes Supplement, 1992; to eliminate provisions relating to the Youth Leadership Academy Act; to harmonize provisions; and to repeal the original sections, and also sections 50-1001 to 50-1009, Revised Statutes Supplement, 1992.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?' "

Voting in the affirmative, 41:

Abboud	Beutler	Chambers	Coordsen	Elmer
Ashford	Beyer	Chizek	Cudaback	Haberman
Baack	Bohlke	Conway	Dierks	Hartnett

Hillman	Landis	Nelson	Rogers	Warner
Horgan	Lindsay	Peterson	Schellpeper	Wehrbein
Johnson, L.	Lynch	Pirsch	Schimek	Wesely
Johnson, R.	Moore	Rasmussen	Schmit	Will
Kristensen	Morrissey	Robak	Schrock	Withem
Lamb				

Voting in the negative, 6:

Bernard-	Byars	Hall	Hefner	Robinson
Stevens	Crosby			

Present and not voting, 1:

Wickersham

Excused and not voting, 1:

Labedz

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

MOTION - Return LB 26 to Select File

Mr. Landis moved to return LB 26 to Select File for the following specific amendment:

FA20S3

Delete the E clause.

Mr. Landis withdrew his motion to return.

BILLS ON FINAL READING

The following bills were read and put upon final passage:

LEGISLATIVE BILL 26. With Emergency.

A BILL FOR AN ACT relating to unclaimed property; to amend sections 24-345, 25-2717, 69-1301 to 69-1308, 69-1310, 69-1313, 69-1315 to 69-1317, 69-1321, 69-1322, 69-1324, and 69-1329, Reissue Revised Statutes of Nebraska, 1943; to redefine terms; to provide for the transfer of funds; to change provisions relating to the holding period of unclaimed property; to provide for the filing of a report; to

provide penalties; to harmonize provisions; to appropriate funds; to repeal the original sections; and to declare an emergency.

SPEAKER BAACK PRESIDING

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass with the emergency clause attached?'"

Voting in the affirmative, 46:

Abbound	Conway	Hillman	Morrissey	Schimek
Ashford	Coordsen	Horgan	Nelson	Schmit
Baack	Crosby	Johnson, L.	Peterson	Schrock
Bernard-	Cudaback	Johnson, R.	Pirsch	Warner
Stevens	Dierks	Kristensen	Rasmussen	Wehrbein
Beutler	Elmer	Lamb	Robak	Wesely
Beyer	Haberman	Landis	Robinson	Wickersham
Bohlke	Hall	Lynch	Rogers	Will
Byars	Hartnett	Moore	Schellpeper	Withem
Chizek	Hefner			

Voting in the negative, 0.

Present and not voting, 2:

Chambers Lindsay

Excused and not voting, 1:

Labedz

A constitutional two-thirds majority having voted in the affirmative, the bill was declared passed with the emergency clause and the title agreed to.

PRESIDENT MOUL PRESIDING

LEGISLATIVE BILL 29.

A BILL FOR AN ACT relating to the Nebraska College of Technical Agriculture at Curtis; to amend section 85-121.05, Revised Statutes Supplement, 1992; to change a date relating to role and mission changes; and to repeal the original section.

Whereupon the President stated: "All provisions of law relative to procedure having been complied with, the question is, 'Shall the bill pass?'"

Voting in the affirmative, 37:

Abboud	Conway	Hefner	Moore	Schimek
Ashford	Coordsen	Hillman	Morrissey	Warner
Baack	Crosby	Horgan	Nelson	Wehrbein
Bernard-	Cudaback	Johnson, L.	Pirsch	Wesely
Stevens	Dierks	Kristensen	Rasmussen	Wickersham
Beutler	Haberman	Lamb	Robinson	Will
Bohlke	Hall	Landis	Schellpeper	Withem
Chizek	Hartnett	Lynch		

Voting in the negative, 9:

Beyer	Elmer	Peterson	Rogers	Schrock
Byars	Johnson, R.	Robak	Schmit	

Present and not voting, 2:

Chambers Lindsay

Excused and not voting, 1:

Labeledz

A constitutional majority having voted in the affirmative, the bill was declared passed and the title agreed to.

UNANIMOUS CONSENT - Member Excused

Mr. Haberman asked unanimous consent to be excused. No objections. So ordered.

PRESIDENT SIGNED

While the Legislature was in session and capable of transacting business, the President signed the following bills: 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 19, 20, 21, 26, and 29.

RESOLUTIONS

LEGISLATIVE RESOLUTION 6. Read. Considered.

LR 6 was adopted with 37 ayes, 0 nays, and 12 not voting.

LEGISLATIVE RESOLUTION 7. Read. Considered.

Mr. Landis and Mrs. Crosby asked unanimous consent to have their names added as cointroducers to LR 7. No objections. So ordered.

LR 7 was adopted with 38 ayes, 0 nays, and 11 not voting.

Mr. Landis asked unanimous consent to be excused until he returns. No objections. So ordered.

MOTION - Suspend Rules

Mr. Hefner moved to suspend the rules, Rule 4, Section 6, to permit consideration of resolutions introduced today.

The motion prevailed with 37 ayes, 0 nays, 9 present and not voting, and 3 excused and not voting.

RESOLUTIONS

LEGISLATIVE RESOLUTION 9. Introduced by Hefner, 19; Abboud, 12; Ashford, 6; Baack, 47; Bernard-Stevens, 42; Beutler, 28; Beyer, 3; Bohlke, 33; Byars, 30; Chambers, 11; Chizek, 31; Conway, 17; Coordsen, 32; Crosby, 29; Cudaback, 36; Dierks, 40; Elmer, 38; Haberman, 44; Hall, 7; Hartnett, 45; Hillman, 48; Horgan, 4; R. Johnson, 34; Kristensen, 37; Labedz, 5; Lamb, 43; Landis, 46; Lindsay, 9; Lynch, 13; Moore, 24; Morrissey, 1; Nelson, 35; Peterson, 21; Pirsch, 10; Rasmussen, 20; Robak, 22; Robinson, 16; Rogers, 41; Schellpeper, 18; Schimek, 27; Schmit, 23; Schrock, 39; Warner, 25; Wehrbein, 2; Wesely, 26; Wickersham, 49; Will, 8; Withem, 14.

WHEREAS, Ruth Sloss Johnson, wife of State Senator Lowell C. Johnson, passed away September 6, 1992; and

WHEREAS, Mrs. Johnson taught school at Snyder High School, was a rural helping teacher in Dodge County, was a member of many community organizations, including the Eastern Library Systems Board, the Nebraska Library Commission State Advisory Council, the United Presbyterian Church in North Bend, the Memorial Hospital of Dodge County Foundation, as well as a member of the Nebraska Legislative Ladies' League, and past president of the Unicameral Club of Nebraska; and

WHEREAS, Mrs. Johnson will be missed by the members of her community and the state.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

1. That the members of the Legislature express their deepest sympathy to State Senator Lowell C. Johnson and family.
2. That a copy of this resolution be presented to State Senator Lowell C. Johnson and family.

Mr. Hefner asked unanimous consent to add all senators' names as cointroducers to LR 9. No objections. So ordered.

LR 9 was adopted with 43 ayes, 0 nays, and 6 not voting.

LEGISLATIVE RESOLUTION 10. Introduced by Pirsch, 10.

WHEREAS, Harold J. Daub, Sr. together with his wife Eleanor raised and guided their two sons, Russ and Hal; and

WHEREAS, Harold J. Daub, Sr. was a role model to his sons and a loving husband to his wife, Eleanor; and

WHEREAS, Russ and Hal Daub have been influenced by their parents' values of love and dedication in the successes they have achieved; and

WHEREAS, Harold (Hal) Daub, Jr. payed tribute to his parents' influence through his dedicated service as Congressman to the Second Congressional District of Nebraska; and

WHEREAS, Harold J. Daub, Sr. passed away September 29, 1992.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE NINETY-SECOND LEGISLATURE OF NEBRASKA, THIRD SPECIAL SESSION:

1. That the members of the Legislature express their deepest sympathy to the widow and family of Harold J. Daub, Sr.
2. That a copy of this resolution be presented to Mrs. Eleanor Daub and family.

LR 10 was adopted with 41 ayes, 0 nays, and 8 not voting.

PRESENTED TO THE GOVERNOR

Presented to the Governor on October 2, 1992, at 12:15 p.m., were the following bills: 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 19, 20, 21, 26, and 29.

(Signed) Rosie Ziems

Clerk of the Legislature's Office

MOTION - Notify Governor

Mr. Chizek moved that a committee of five be appointed to notify the Governor that the Ninety-Second Legislature, Third Special Session of the Nebraska State Legislature, is about to complete its work, and to return with any message the Governor may have for the Legislature.

The motion prevailed.

The Chair appointed Messrs. Lindsay, Moore, Lynch, R. Johnson, and Mrs. Pirsch to serve on said Committee.

The Committee returned and escorted Governor E. Benjamin Nelson to the rostrum where he delivered a message to the members.

The Committee escorted the Governor from the Chamber.

MOTION - Approve Journal

Mr. R. Johnson moved that the Legislative Journal for the tenth day be approved as prepared by the Clerk.

The motion prevailed.

MOTION - Adjourn Sine Die

Mr. L. Johnson moved that the Ninety-Second Legislature, Third Special Session of the Nebraska State Legislature, having finished all business before it, now at 12:46 p.m., adjourn sine die.

The motion prevailed.

Patrick J. O'Donnell
Clerk of the Legislature

RECEIVED AFTER ADJOURNMENT

LEGISLATIVE JOURNAL

**NINETY-SECOND LEGISLATURE
THIRD SPECIAL SESSION**

MESSAGES FROM THE GOVERNOR

October 5, 1992

Patrick J. O'Donnell
Clerk of the Legislature
State Capitol, Room 2018
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 1e, 2e, 3e 4e, 9e, 10, 12e, 13e, 14e, 15, 19e, 20e, 21, and 26e were received in my office on October 2, 1992.

These bills were signed by me on October 5, 1992, and delivered to the Secretary of State.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

October 5, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Madam President and Senators:

Today I signed and delivered to the Secretary of State LB 29, a bill pertaining to the Nebraska College of Technical Agriculture (NCTA).

LB 29 moves forward by two years, to July 1, 1993, the date by which the Coordinating Commission for Postsecondary Education must decide whether the NCTA should be placed under the control and management of a community college instead of the Board of Regents

of the University of Nebraska. Thus, as passed, LB 29 accelerates a coordination and planning activity previously mandated by the Legislature.

As originally introduced, LB 29 clearly was a rush to judgement and a move away from comprehensive planning and sound coordination. The surprise effect of the bill was accentuated by its late introduction and the one-day public hearing notice. This gave the impression of a breach of faith with the NCTA, the people from the Curtis area, and Nebraska agriculture in general. I made known at once my opposition to such a move.

While my preference would have been to let the review proceed as previously scheduled, I signed LB 29 out of respect for the deliberative process in the Legislature and in recognition of the substantial change from the original bill which the final compromise reflects. I have been advised that the Coordinating Commission will still be able to proceed with a careful review despite the shortened time frame.

In closing, I wish to emphasize my concern that young Nebraskans and Nebraska's leading industry continue to have access to a broad range of up-to-date technical agriculture programs.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

October 5, 1992

Madam President, Mr. Speaker
and Members of the Legislature
State Capitol
Lincoln, NE 68509

Dear Madam President and Senators:

Today I signed and delivered to the Secretary of State LB 11, a bill pertaining to a reduction in the amount of appropriation to the Municipal Infrastructure Redevelopment Fund (MIRF).

LB 11 reduces the appropriation from the cigarette tax proceeds to the Municipal Infrastructure Redevelopment Fund from \$4.5 million to \$3.75 million for the next biennium and to \$3 million until 2009.

Although LB 11 was not included as a part of my budget recommendations, it was the Legislature's decision to reduce the state's budget in this manner. As I have often said, no legislative session to reduce the state budget is without pain. The passage of this bill is indeed evidence of that principle. I commend the Legislature for recognizing the need to set fiscal priorities, and their careful

deliberations regarding the distribution of these funds. I believe a more prudent course of action would have been to reduce an equivalent amount of state aid since municipalities depend on these funds to finance local infrastructure projects. This would also have alleviated concerns about possible impacts to current debt structure and future bonding ability. Although I have these reservations, I feel it is necessary to sign LB 11 due to the state's current fiscal situation.

Sincerely,
(Signed) E. Benjamin Nelson
Governor

CERTIFICATE

I, Patrick J. O'Donnell, Clerk of the Legislature, hereby certify that the foregoing communications are true and correct copies of letters provided concerning action on bills after adjournment of the Ninety-Second Legislature, Third Special Session of the Nebraska Legislature.

Patrick J. O'Donnell
Clerk of the Legislature

October 6, 1992
Lincoln, Nebraska

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CHRONOLOGY OF BILLS
NINETY-SECOND LEGISLATURE
THIRD SPECIAL SESSION
1992

LEGISLATIVE BILL 1. By Speaker Baack, at the request of the Governor

Sept. 21	Read first time	39
Sept. 21	Referred to Committee on Appropriations	46
Sept. 22	Notice of hearing (9/24)	51
Sept. 25	Placed on General File - Com AM18SS	68
Sept. 28	Committee AM18SS adopted. Advanced for Review	81
Sept. 28	Ashford AM20SS printed	83
Sept. 28	Placed on Select File - AM5309	88
Sept. 29	Haberman AM55SS printed	113
Sept. 29	Schellpeper AM65SS printed	123
Sept. 30	AM5309 (E & R) adopted. Ashford pending AM20SS p. 83, Haberman pending AM55SS p. 113, Schellpeper pending AM65SS p. 123 and Wesely FA12S3 withdrawn. Moore AM68SS adopted	133
Sept. 30	Schellpeper-Wesely-Schmit AM73SS adopted. Haberman FA13S3 withdrawn. Advanced for Engrossment	137
Sept. 30	Correctly Engrossed. ER7189 change	160
Oct. 2	Lynch motion to suspend rules prevailed	167
Oct. 2	Moore motion to return to Select File for FA17S3 withdrawn. Final Reading w/E 46-0-3	168
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	187

LEGISLATIVE BILL 2. By Speaker Baack, at the request of the Governor

Sept. 21	Read first time	40
Sept. 21	Referred to Committee on Appropriations	46
Sept. 22	Notice of hearing (9/23)	50
Sept. 25	Placed on General File	68

Sept. 28	Advanced for Review	82
Sept. 28	Placed on Select File - AM5307	90
Sept. 30	AM5307 (E & R) adopted. Advanced for Engrossment	137
Sept. 30	Correctly Engrossed	149
Oct. 2	Lynch motion to suspend rules prevailed	167
Oct. 2	Final Reading w/E 45-0-4	169
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	187

LEGISLATIVE BILL 3. By Speaker Baack, at the request of the Governor

Sept. 21	Read first time	40
Sept. 21	Referred to Committee on Education	46
Sept. 22	Notice of hearing (9/24)	54
Sept. 28	Placed on General File	84
Sept. 29	Withem AM59SS printed	114
Sept. 29	Withem pending AM59SS p. 114, Withem AM62SS, and Moore-Ashford AM09SS withdrawn. Advanced for Review	123
Sept. 30	Placed on Select File	132
Sept. 30	Moore-Ashford reoffered AM09SS p. 125 and Withem AM70SS adopted. Advanced for Engrossment	154
Sept. 30	Returned to Select File for Withem amendment. Withem FA16S3 adopted. Advanced for Engrossment	157
Sept. 30	Correctly Engrossed. ER7190 change	162
Oct. 2	Lynch motion to suspend rules prevailed	167
Oct. 2	Final Reading w/E 41-3-5	170
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	187

LEGISLATIVE BILL 4. By Wesely, at the request of the Governor

Sept. 21	Read first time	40
Sept. 21	Referred to Committee on Health and Human Services	46
Sept. 22	Notice of hearing (9/24)	54
Sept. 28	Placed on General File - Com AM25SS	81
Sept. 29	Committee AM25SS adopted. Hall FA10S3	

CHRONOLOGY OF BILLS

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	ruled not germane. Advanced for Review	116
Sept. 29	Placed on Select File - AM5311	119
Sept. 30	AM5311 (E & R) adopted.	
	Advanced for Engrossment	138
Sept. 30	Correctly Engrossed	149
Oct. 2	Lynch motion to suspend rules prevailed	167
Oct. 2	Final Reading w/E 33-11-5	171
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	187

LEGISLATIVE BILL 5. By Wesely, at the request of the Governor

Sept. 21	Read first time	40
Sept. 21	Referred to Committee on Health and Human Services	46
Sept. 22	Notice of hearing (9/23)	54
Sept. 28	Indefinitely postponed	96

LEGISLATIVE BILL 6. By Appropriations Committee

Sept. 21	Read first time	40
Sept. 21	Referred to Committee on Government, Military and Veterans Affairs	46
Sept. 22	Notice of hearing (9/23)	51
Oct. 2	Indefinitely postponed, pursuant to Rule 9, Sec. 8	

LEGISLATIVE BILL 7. By Appropriations Committee

Sept. 21	Read first time	41
Sept. 21	Referred to Committee on Revenue	46
Sept. 22	Notice of hearing (9/24)	51
Sept. 25	Indefinitely postponed	65

LEGISLATIVE BILL 8. By Appropriations Committee

Sept. 21	Read first time	41
Sept. 21	Referred to Committee on Appropriations	46
Sept. 22	Notice of hearing (9/24)	50
Oct. 2	Indefinitely postponed, pursuant to Rule 9, Sec. 8	

LEGISLATIVE BILL 9. By Appropriations Committee

Sept. 21	Read first time	41
Sept. 21	Referred to Committee on Appropriations	46

Sept. 22	Notice of hearing (9/23)	50
Sept. 25	Placed on General File - Com AM17SS	71
Sept. 28	Committee AM17SS adopted. Advanced for Review	85
Sept. 28	Placed on Select File - AM5308	92
Sept. 30	AM5308 (E & R) adopted. Beutler AM40SS lost. Beutler motion to recommit to Appropriations Committee withdrawn. Warner AM74SS adopted. Advanced for Engrossment	144
Sept. 30	Correctly Engrossed	162
Sept. 30	ER7192 change	163
Oct. 2	Lynch motion to suspend rules prevailed	167
Oct. 2	Final Reading w/E 45-1-3	172
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	187

LEGISLATIVE BILL 10. By Appropriations Committee

Sept. 21	Read first time	42
Sept. 21	Referred to Committee on Government, Military and Veterans Affairs	46
Sept. 22	Notice of hearing (9/23)	51
Sept. 24	Placed on General File - Com AM14SS	63
Sept. 28	Committee AM14SS adopted. Chambers FA1S3 lost. Chambers motion to reconsider committee AM14SS prevailed. Committee AM14SS reconsidered	86
Sept. 28	Committee pending AM14SS p. 63 lost. Passed over	91
Sept. 28	Bohlke AM39SS adopted. Schrock motion to bracket until 1/1/93 lost. Advanced for Review	95
Sept. 28	Schimek AM50SS printed. Placed on Select File - AM5310	99
Sept. 30	AM5310 (E & R) adopted. Schimek pending AM50SS p. 99 withdrawn. Schimek AM56SS to AM5310 pending. Passed over	153
Sept. 30	Schimek pending AM56SS p. 153 withdrawn. Schimek-Bohlke-Landis AM81SS lost. Failed to advance for Engrossment	157
Sept. 30	Speaker announced a change of agenda to allow consideration on Select File. Schimek AM82SS to AM5310 adopted. Advanced for Engrossment	161
Sept. 30	Correctly Engrossed	162
Oct. 2	Lynch motion to suspend rules prevailed	167

CHRONOLOGY OF BILLS

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Oct. 2	Final Reading 41-3-5	172
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	187

LEGISLATIVE BILL 11. By Appropriations Committee

Sept. 21	Read first time	42
Sept. 21	Referred to Committee on Appropriations	46
Sept. 22	Notice of hearing (9/24)	50
Sept. 25	Placed on General File	68
Sept. 28	Advanced for Review	82
Sept. 28	Placed on Select File	92
Sept. 29	Schellpeper AM44SS printed	106
Sept. 29	Schellpeper AM45SS printed	107
Sept. 29	Conway AM53SS printed	108
Sept. 29	Lynch AM57SS printed	119
Sept. 30	Schellpeper pending AM44SS p. 106 withdrawn. Schellpeper pending AM45SS p. 107 pending	138
Sept. 30	Schellpeper pending AM45SS p. 107, Conway pending AM53SS p. 108, Lynch pending AM57SS p. 119, and Schellpeper AM42SS lost. Ashford AM77SS adopted. Haberman FA14S3 ruled not germane. Advanced for Engrossment	139
Sept. 30	Attorney General's Opinion #92114 to Schellpeper	150
Sept. 30	Returned to Select File for Moore	150
	amendment. Moore AM80SS adopted. Advanced for Engrossment	155
Sept. 30	Correctly Engrossed	162
Oct. 2	Lynch motion to suspend rules prevailed	167
Oct. 2	Schellpeper motion to return to Select File for FA18S3 withdrawn	173
Oct. 2	Moore motion to return to Select File for FA19S3 withdrawn. Final Reading 26-19-4	174
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	188

LEGISLATIVE BILL 12. By Warner

Sept. 21	Read first time	42
Sept. 21	Placed on General File	46
Sept. 28	Advanced for Review	81
Sept. 28	Placed on Select File	88

Sept. 30	Advanced for Engrossment	133
Sept. 30	Correctly Engrossed	139
Oct. 2	Lynch motion to suspend rules prevailed	167
Oct. 2	Final Reading w/E 47-0-2	175
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	187

LEGISLATIVE BILL 13. By Lindsay, at the request of the Governor

Sept. 21	Read first time	42
Sept. 21	Referred to Committee on Judiciary	46
Sept. 22	Notice of hearing (9/23)	51
Sept. 28	Placed on General File	85
Sept. 29	Advanced for Review	128
Sept. 30	Placed on Select File - AM5314	134
Sept. 30	AM5314 (E & R) adopted. Advanced for Engrossment	138
Sept. 30	Correctly Engrossed	160
Oct. 2	Lynch motion to suspend rules prevailed	167
Oct. 2	Final Reading w/E 44-2-3	175
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	187

LEGISLATIVE BILL 14. By Lindsay, at the request of the Governor

Sept. 21	Read first time	42
Sept. 21	Referred to Committee on Government, Military and Veterans Affairs	46
Sept. 22	Notice of hearing (9/23)	51
Sept. 24	Placed on General File	60
Sept. 28	Warner AM31SS printed	88
Sept. 28	Chambers FA2S3 withdrawn. Chambers FA3S3 lost. Chambers motion to reconsider FA3S3 lost. Chizek motion to indefinitely postpone laid over	92
Sept. 28	Chambers FA4S3, FA5S3, and FA6S3 printed. Chambers motion to return to Government, Military and Veterans Affairs printed	96
Sept. 29	Chizek pending motion p. 94 and Chambers pending motion p. 96 withdrawn. Chambers pending FA4S3, FA5S3, and FA6S3 p. 96	

CHRONOLOGY OF BILLS

197

	withdrawn. Warner pending AM31SS p. 88	
	adopted. Advanced for Review	130
Sept. 30	Placed on Select File - AM5305	135
Sept. 30	AM5305 (E & R) adopted.	
	Advanced for Engrossment	138
Sept. 30	Correctly Engrossed	160
Oct. 2	Lynch motion to suspend rules prevailed	167
Oct. 2	Final Reading w/E 45-2-2	176
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	187

LEGISLATIVE BILL 15. By Appropriations Committee

Sept. 21	Read first time	43
Sept. 21	Referred to Committee on Education	46
Sept. 21	Wehrbein name added	47
Sept. 22	Notice of hearing (9/24)	54
Sept. 28	Placed on General File	84
Sept. 29	Advanced for Review	127
Sept. 30	Placed on Select File	132
Sept. 30	Advanced for Engrossment	138
Sept. 30	Correctly Engrossed	149
Oct. 2	Lynch motion to suspend rules prevailed	167
Oct. 2	Final Reading 44-0-5	178
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	187

LEGISLATIVE BILL 16. By Appropriations Committee

Sept. 21	Read first time	43
Sept. 21	Referred to Committee on Natural Resources	46
Sept. 21	Wehrbein name added	47
Sept. 22	Notice of hearing (9/23)	51
Sept. 25	Indefinitely postponed	67

LEGISLATIVE BILL 17. By Appropriations Committee

Sept. 21	Read first time	43
Sept. 21	Referred to Committee on Government, Military and Veterans Affairs	46
Sept. 21	Wehrbein name added	47
Sept. 22	Notice of hearing (9/23)	51
Oct. 2	Indefinitely postponed, pursuant to Rule 9, Sec. 8	

LEGISLATIVE BILL 18. By Appropriations Committee

Sept. 21	Read first time	44
Sept. 21	Referred to Committee on Natural Resources	46
Sept. 21	Wehrbein name added	47
Sept. 22	Notice of hearing (9/23)	51
Sept. 25	Indefinitely postponed	67

LEGISLATIVE BILL 19. By Appropriations Committee

Sept. 21	Read first time	44
Sept. 21	Referred to Committee on Education	46
Sept. 22	Notice of hearing (9/24)	54
Sept. 28	Placed on General File	84
Sept. 29	Advanced for Review	127
Sept. 30	Placed on Select File - AM5313	132
Sept. 30	AM5313 (E & R) adopted. Advanced for Engrossment	138
Sept. 30	Correctly Engrossed	149
Oct. 2	Lynch motion to suspend rules prevailed	167
Oct. 2	Final Reading w/E 44-0-5	178
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	187

LEGISLATIVE BILL 20. By Lindsay, Wesely, at the request of the Governor

Sept. 21	Read first time	44
Sept. 21	Referred to Committee on Health and Human Services	46
Sept. 22	Notice of hearing (9/23)	54
Sept. 25	Placed on General File - Com AM15SS	67
Sept. 28	Lindsay-Wesely AM48SS to committee amendment adopted. Chambers AM21SS lost	97
Sept. 28	Chambers FA7S3 printed	99
Sept. 29	Chambers motion to reconsider AM21SS p. 97 lost. Crosby AM37SS lost. Chambers motion to reconsider AM37SS lost. Chambers FA8S3 to committee amendment pending	104
Sept. 29	Chambers pending FA8S3 p. 106 lost. Chambers motion to reconsider FA8S3 lost. Committee AM15SS adopted as amended.	

CHRONOLOGY OF BILLS

199

	Crosby AM32SS lost	108
Sept. 29	Chambers motion to reconsider AM32SS lost. Chambers pending FA7S3 p. 99 and FA9S3 withdrawn. Passed over	115
Sept. 29	Chambers AM66SS adopted. Lamb FA11S3 lost. Advanced for Review	116
Sept. 30	Placed on Select File	132
Sept. 30	Advanced for Engrossment	144
Sept. 30	Correctly Engrossed	160
Oct. 2	Lynch motion to suspend rules prevailed	167
Oct. 2	Final Reading w/E 43-4-2	179
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	187

LEGISLATIVE BILL 21. By Nelson

Sept. 21	Read first time	44
Sept. 21	Referred to Committee on Government, Military and Veterans Affairs	46
Sept. 22	Notice of hearing (9/23)	51
Sept. 24	Placed on General File	63
Sept. 29	Advanced for Review	116
Sept. 29	Placed on Select File	119
Sept. 30	Advanced for Engrossment	154
Sept. 30	Correctly Engrossed	160
Oct. 2	Lynch motion to suspend rules prevailed	167
Oct. 2	Final Reading 41-6-2	180
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	187

LEGISLATIVE BILL 22. By Withem

Sept. 21	Read first time	45
Sept. 21	Referred to Committee on Education	46
Sept. 22	Notice of hearing (9/24)	54
Sept. 28	Indefinitely postponed	84

LEGISLATIVE BILL 23. By Withem

Sept. 21	Read first time	45
Sept. 21	Referred to Committee on Education	46
Sept. 22	Notice of hearing (9/24)	54
Sept. 28	Indefinitely postponed	85

LEGISLATIVE BILL 24. By Withem

Sept. 21	Read first time	45
Sept. 21	Referred to Committee on Education	46
Sept. 22	Notice of hearing (9/24)	54
Sept. 28	Indefinitely postponed	85

LEGISLATIVE BILL 25. By Moore

Sept. 21	Read first time	45
Sept. 21	Referred to Committee on Government, Military and Veterans Affairs	46
Sept. 22	Notice of hearing (9/23)	51
Oct. 2	Indefinitely postponed, pursuant to Rule 9 Sec. 8	

LEGISLATIVE BILL 26. By Landis

Sept. 22	Read first time	52
Sept. 22	Referred to Committee on Banking, Commerce and Insurance	53
Sept. 22	Notice of hearing (9/23)	54
Sept. 23	Will name added	57
Sept. 28	Placed on General File - Com AM34SS	91
Sept. 28	Schmit AM41SS printed	96
Sept. 29	Committee AM34SS adopted. Withem-Landis AM63SS adopted. Advanced for Review	128
Sept. 30	Placed on Select File - AM5315	134
Sept. 30	AM5315 (E & R) adopted. Advanced for Engrossment	144
Sept. 30	Schmit pending AM41SS p. 96 withdrawn	161
Sept. 30	Correctly Engrossed	162
Oct. 2	Lynch motion to suspend rules prevailed	167
Oct. 2	Landis motion to return to Select File for FA20S3 withdrawn. Final Reading w/E 46-0-3	181
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	187

LEGISLATIVE BILL 27. By Wesely

Sept. 22	Read first time. Referred to Committee	
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	on Health and Human Services	53
Sept. 22	Notice of hearing (9/23)	54
Oct. 2	Indefinitely postponed, pursuant to Rule 9 Sec. 8	

LEGISLATIVE BILL 28. By Conway

Sept. 23	Read first time	57
Sept. 23	Referred to Committee on Government, Military and Veterans Affairs. Notice of hearing (9/24)	58
Oct. 2	Indefinitely postponed, pursuant to Rule 9 Sec. 8	

LEGISLATIVE BILL 29. By Chizek

Sept. 23	Read first time	57
Sept. 23	Referred to Committee on Education. Notice of hearing (9/24)	58
Sept. 28	Placed on General File - Com AM33SS	84
Sept. 29	Committee AM33SS adopted. Advanced for Review	127
Sept. 30	Placed on Select File - AM5312	134
Sept. 30	AM5312 (E & R) adopted. Wesely-Chizek AM79SS withdrawn. Withem FA15S3 to AM79SS adopted. Advanced for Engrossment	156
Sept. 30	Correctly Engrossed	162
Sept. 30	ER7191 change	163
Oct. 2	Lynch motion to suspend rules prevailed	167
Oct. 2	Final Reading 37-9-3	182
Oct. 2	President signed	183
Oct. 2	Presented to Governor (10/02)	185
Oct. 6	Approved by Governor (10/05)	187

LEGISLATIVE BILL 30. By Conway

Sept. 23	Read first time	57
Sept. 23	Referred to Committee on Business and Labor. Notice of hearing (9/25)	58
Sept. 25	Notice of hearing (9/28) (Reset)	66
Sept. 28	Indefinitely postponed	91

**CHRONOLOGY OF CONSTITUTIONAL
AMENDMENT RESOLUTIONS**

**NINETY-SECOND LEGISLATURE
THIRD SPECIAL SESSION
1992**

LEGISLATIVE RESOLUTION 1CA. By Kristensen

Sept. 22	Read first time	52
Sept. 22	Referred to Reference Committee. Referred to Committee on Transportation	53
Sept. 22	Notice of hearing (9/23)	54
Oct. 2	Indefinitely postponed, pursuant to Rule 9, Sec. 8	

**LEGISLATIVE BILLS AND
CONSTITUTIONAL AMENDMENT RESOLUTIONS
BY INTRODUCERS**

DENNIS G. BAACK

LB

- 1** Change provisions relating to appropriations for state agencies.
- 2** Authorize and provide for transfers of funds.
- 3** Eliminate reimbursement provisions for education costs of wards of state or court.

JERRY CHIZEK

LB

- 29 Provide limits on appropriations for the Nebraska College of Agriculture at Curtis.

GERALD CONWAY

LB

- 28 Eliminate certain duties of the Accountability and Disclosure Commission.
- 30 Eliminate the Commission of Industrial Relations.

DOUGLAS A. KRISTENSEN

LR

- 1CA Constitutional amendment to eliminate the Public Service Commission.

DAVID LANDIS

LB

- 26* Change provisions relating to the holding period of unclaimed property.

JOHN C. LINDSAY

LB

- 13** Change powers and duties of the Parole Board and the Department of Correctional Services.
- 14** Eliminate Department of Personnel and create the personnel division of Department of Administrative Services.
- 20*** Change provisions relating to aid to dependent children payments.

SCOTT MOORE**LB**

25

Change provisions relating to continuing education for county attorneys.

ARLENE NELSON**LB**

21

Eliminate provisions relating to the Youth Leadership Academy Act.

JEROME WARNER**LB**

12

Appropriate funds for special session expenses.

DON WESELY**LB**

4**

Change implementation dates of the Developmental Disabilities Services Act.

5**

Provide a duty for the Director of Social Services relating to medical assistance.

20***

Change provisions relating to aid to dependent children payments.

27

Change provisions relating to aid to dependent children payments to a pregnant woman.

ERIC WILL**LB**

26*

Change provisions relating to the holding period of unclaimed property.

RON WITHEM**LB**

22

Change provisions relating to minimum amounts of state aid for education.

23

Change provisions for calculation of tiered cost per student values.

24

Change provisions for dedicated state income tax receipts for state aid to schools.

APPROPRIATIONS**LB**

6

Reduce the number of Public Service commissioners from five to three.

BILLS AND CONSTITUTIONAL AMENDMENT
RESOLUTIONS BY INTRODUCERS

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- 7 Provide for collection of liquor taxes by the Department of Revenue.
- 8 Change provisions relating to capital construction.
- 9 Change the distribution of cigarette tax proceeds.
- 10 Change tuition assistance provisions for members of the National Guard.
- 11 Reduce cigarette tax proceeds distributed to the Municipal Infrastructure Redevelopment Fund.
- 15 Change reimbursement for minor building modifications under the Special Education Act.
- 16 Change provisions relating to park permit fees.
- 17 Eliminate provisions relating to the State Athletic Commissioner.
- 18 Provide fee for copying certain documents of the Department of Environmental Quality.
- 19 Change provisions for tuition payment for students attending high school out of state.
- * With others.
- ** At the request of the Governor.
- *** With others and at the request of the Governor.

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1 2 8 9 11

Banking, Commerce and Insurance

Chairperson - David Landis

26

Business and Labor

Chairperson - George Coordsen

30

Education

Chairperson - Ron Withem

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15

Government, Military and Veterans Affairs

Chairperson - Gerald Conway

6 14 17 21 25 28
10

Health and Human Services

Chairperson - Don Wesely

4 5 20 27

Judiciary

Chairperson - Jerry Chizek

13

Natural Resources

Chairperson - Rod Johnson

16

18

Revenue

Chairperson - Timothy J. Hall

7

Transportation

Chairperson - Douglas A. Kristensen

LR1CA

SUMMARY OF LEGISLATION

Ninety-Second Legislature, Third Special Session

The following table shows the final disposition:

Total Number of Bills Introduced	30
Total Number of Resolutions Introduced	10

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